



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 16025408

Date: MAR. 3, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions, codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center (the Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), determining the Petitioner did not establish he resided with his spouse and entered into their marriage in good faith. The Director dismissed a subsequent motion to reopen and reconsider, concluding additional evidence demonstrated the Petitioner's joint residence with his spouse but was insufficient to establish he entered into their marriage in good faith. On appeal, the Petitioner asserts his eligibility for VAWA classification.

We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

## I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i).

Although we must consider any credible evidence relevant to the VAWA petition, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

The Petitioner, a native and citizen of Israel, married his U.S. citizen spouse, L-Y-E-,<sup>1</sup> in [REDACTED] 2015. The Petitioner filed his VAWA petition in September 2019. The Director denied the petition,

---

<sup>1</sup> Initials are used to protect the privacy of this individual.

concluding in part that the Petitioner had not met his burden of establishing he entered into marriage with L-Y-E- in good faith.

On appeal, the Petitioner asserts the Director did not adequately address the explanations and arguments in his motion brief. The record contains, in relevant part: a marriage and divorce certificate for the Petitioner and L-Y-E-; four affidavits from the Petitioner; affidavits from individuals known to the Petitioner including O-B-, T-R-, B-I-, and S-B-; employment and financial documentation including tax returns, business documents, letters from a tax preparer and employer, and evidence of a joint checking account with a small amount of monthly transactions; driver's licenses for the Petitioner and L-Y-E- bearing the same address; photographs including the Petitioner and L-Y-E- and L-Y-E- and C-R-; Costco membership cards for the Petitioner and L-Y-E-; two psychological evaluations and a follow-up report for the Petitioner; and physician's letter and prescription for the Petitioner.

In denying the petition, the Director determined the record contained inconsistencies related to the Petitioner's eligibility for VAWA classification, including the period directly preceding the Petitioner's marriage to L-Y-E-. The Petitioner asserts he first entered in [redacted] as a tourist from Israel on October 24, 2014, then met L-Y-E- in [redacted] on October 28, 2014. The Petitioner claims he and L-Y-E- went out on a date and "were inseparable from that day," maintaining their relationship with daily hours-long meaningful conversations even during the Petitioner's subsequent eight-month visit to [redacted]. The Petitioner asserts that despite his relationship with L-Y-E-, he only decided to take his eight-month vacation to [redacted] because he had made previously plans to stay with his friend, D- at "[redacted] Street." The Petitioner contends he returned to [redacted] in July 2015 and stayed with a friend while spending days and nights at L-Y-E-'s home, before moving into L-Y-E-'s home later that month. Through investigation, USCIS determined that in [redacted] and during the Petitioner's claimed relationship with L-Y-E-, the Petitioner was actually residing with another female, T-R-, then continued his residence with T-R- in a different state, signing a lease with her in [redacted] Nevada. On appeal, counsel for the Petitioner contends evidence of the Petitioner's common address with T-R- in [redacted] is not contradictory to his claim that he was staying with his friend D- in New York at "[redacted] Street" and speculates their shared address could have been used only as a safe address for mail rather than residence. We note that assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Even so, the record reflects the Petitioner and T-R- signed a rental application for a [redacted] apartment unit in April 2015 that indicated their common address from November 2014 to May 2015 was [redacted] Street, the same address at which the Petitioner acknowledged he stayed in [redacted]. The Petitioner does not address with resident with T-R- in [redacted]. Rather, the Petitioner submitted a statement asserting it would not be right to move in with L-Y-E- right away when he arrived in [redacted] because of her three children, so he stayed with T-R-, as he had co-signed an apartment with her. The Petitioner claims he used his [redacted] leases with T-R- from May 2015 to December 2016 to manage his business. We note T-R- submits a statement in support of the VAWA petition indicating she has known the Petitioner since they met in [redacted] in 2010, while O-B- submits a statement in support of the petition contradictorily stating he introduced the Petitioner to T-R- in [redacted] in 2014. Accordingly, the record contains discrepancies concerning the extent of the Petitioner's relationship with T-R- during his courtship period with L-Y-E- and relating to the Petitioner's intentions in entering marriage with L-Y-E-.

The Petitioner married L-Y-E- in [ ] 2015 and claimed he resided with L-Y-E- and her children from July 2015 to November 2016, developing relationships with all her children. However, when the Petitioner was interviewed by USCIS in November 2016 after fifteen months of claimed residence with L-Y-E-'s children, the Petitioner did not know the names of the children's schools and was not aware of their regular activities. Similarly, the Director noted the Petitioner wrote one of the L-Y-E-'s children's names as [ ] in his affidavits but wrote the same name as [ ] in checks he wrote to L-Y-E- in May, June, and July 2016. The Director determined that it would be reasonable, in a *bona fide* marriage, for the Petitioner to know the spelling of L-Y-E-'s daughter's name. On appeal, the Petitioner asserts the Hebrew spelling of the L-Y-E-'s daughter's name can be translated phonetically to either [ ] or [ ]. While we acknowledge that a phonetic name can be spelled with different variations, it does not explain why the Petitioner would be unfamiliar with the actual and correct spelling of L-Y-E-'s daughter's name during their claimed period of co-habitation. In addition, the Petitioner asserts in a statement that *after* his proposal, he began to see the controlling side of L-Y-E- when she was concerned about his ex-girlfriend in Israel, stating: "I will not let you go. Its [*sic*] you and me." However, a psychological evaluation of the Petitioner, based on self-report over seven psychotherapy sessions, contradictorily indicates that when L-Y-E- began to express concern about the Petitioner's ex-girlfriend, saying "I will not let you go. It's you and me . . .," the Petitioner responded to this statement by proposing to her. As such, the record contains discrepancies related to the period of the Petitioner's marriage to L-Y-E- and the Petitioner's claims that their marriage was *bona fide*.

The record also contains evidence of a USCIS site visit to the claimed residence of the Petitioner, L-Y-E- and her children, [ ] Avenue, in December 2016. Upon arrival, an unknown individual answered the door and indicated he had been living there for two weeks. He was not familiar with the Petitioner's name and stated he was renting the home from L-Y-E-. That same day, a call was made to the Petitioner, who replied that his residence was at the [ ] Avenue address. After a disconnected call, the Petitioner then stated the L-Y-E- had moved to Minnesota two weeks ago with her children and he was staying with a friend until he joined them in Minnesota. After another disconnected call, the Petitioner was able to provide the address where L-Y-E- and her children were staying in Minnesota. In support of his VAWA petition, the Petitioner claims L-Y-E- told him she wanted them to move to Minnesota, put him in a weekly rental while she and the children went ahead to Minnesota, then two weeks later stated their marriage was over. The record contains a discrepancy concerning the Petitioner's actual place of residence at the time of the site visit. On appeal, the Petitioner submits an affidavit stating he did not plan to submit a change of address with USCIS until he moved to Minnesota, and he was residing at [ ] Condominiums at the time of the site visit. This assertion does not explain the Petitioner's false claim to USCIS officials that his place of residence was his claimed shared residence with L-Y-E- on the day of the site visit.

Counsel for the Petitioner asserts that the Petitioner's submissions in support his VAWA petition are voluminous and sufficient. Counsel also contends the Director did not explain how a person of good moral character could continue to reside with an abusive wife unless the marriage was *bona fide*. The burden, however, lays not with the Director but the Petitioner to demonstrate his eligibility for VAWA classification by a preponderance of the evidence. The evidence submitted by the Petitioner in support of his petition is detailed above. But the discrepancies in the record pertaining to the Petitioner's affidavits, the affidavits of O-B- and T-R-, and a psychological evaluation for the Petitioner lessen the

weight of these submissions. The Petitioner's other psychological evaluations similarly rely solely on his self-reporting. The additional affidavits from B-I- and S-B- are vague and lack detail regarding the Petitioner's intent in entering into marriage with L-Y-E. While any credible evidence will be considered in assessing whether a petitioner has met their burden to establish eligibility, USIS has sole discretion to determine the credibility of and the weight given to such evidence. Though the record additionally contains photographs of the Petitioner and L-Y-E- and some joint financial documentation as stated above, on balance such evidence is inadequate to establish good faith marriage given the discussed deficiencies in the record. On appeal, the Petitioner has not demonstrated that he entered into marriage with his U.S. citizen spouse in good faith as required. Accordingly, he has not established eligibility for VAWA immigrant classification.

**ORDER:** The appeal is dismissed.