



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

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

In Re: 25728911

Date: APR. 25, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)

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 denied the petition, concluding that the record did not establish that the Petitioner had a qualifying relationship, or that the Petitioner entered the marriage in good faith. The matter is now before us on appeal. 8 C.F.R. § 103.3.¹

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate, in part, that they were in a qualifying relationship as the spouse of a U.S. citizen, are eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and were battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(i)-(iii) of the Act.

Acknowledging the limitations placed on petitioners in abusive relationships, evidence that the marriage was entered into in good faith may include, but is not limited to: shared insurance policies, property leases, income tax forms, or bank accounts; testimony or other evidence regarding courtship, wedding ceremony, shared residence, and experiences together; birth certificates of children born to the relationship; police, medical, or court documents providing information about the relationship; or affidavits of persons with personal knowledge of the relationship. 8 C.F.R. § 204.2(c)(2)(vii). Petitioners are “encouraged to submit primary evidence whenever possible,” but may submit any credible evidence relevant to the VAWA petition in order to establish eligibility. 8 C.F.R. §

¹ We decline the Petitioner’s request for oral argument. 8 C.F.R. § 103.3(b).

204.2(c)(2)(i). We determine, in our sole discretion, the credibility of and weight given to all of the 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 Nigeria, married O-T-, a U.S. citizen, in [] 2017.² They filed the instant VAWA petition in September 2020 based on this marriage.

In the record before the Director, the Petitioner stated that they met O-T- in February 2017, when they took a church trip to Minnesota. The Petitioner stated that O-T- then came to visit them in Georgia, and then the Petitioner returned to Minnesota in March 2017. The Petitioner discussed how they would talk to O-T- on the phone to discuss their plans for the future, when they decided to get married, and dates they went on with O-T-. The Petitioner submitted affidavits from third parties who discussed the Petitioner's marriage to O-T-, as well as a joint insurance card, text messages, photographs, and a card from O-T-. The Director reviewed all the evidence submitted by the Petitioner and determined that it was insufficient in establishing the Petitioner's good faith in entering the marriage with O-T-. The Director also pointed to the Incident Report from the [] Police Department, rising from an incident in July 2017, where it is noted that the Petitioner told the officers on the scene that, "they met through a mutual friend and [the Petitioner] moved up from Georgia without ever meeting [O-T-] and married [O-T-]."³ The Director also noted that the Petitioner had not submitted proper documentation of their divorce to a previous spouse in Nigeria, and concluded that they had not demonstrated that they had entered into a qualifying relationship with O-T-, as required by section 204(a)(1) of the Act.

The Petitioner's statement submitted with the VAWA petition explains that they first met O-T- in February 2017, and that they liked that it appeared that O-T- helped those around him. The Petitioner stated that their friend indicated that O-T- sent the Petitioner's friend's mother money when she needed help, and that their first interaction with O-T- was at Sam's Club where O-T- paid for diapers for the Petitioner's friend's son. The Petitioner explained that when they returned to Georgia after their initial meeting, O-T- would call them frequently and O-T- indicated that they were ready to settle down and get married. The Petitioner stated that O-T- came to visit them in Georgia later in February 2017, and O-T- called the Petitioner's mother to introduce themselves, and O-T- also accompanied them to church. After O-T- returned to Minnesota, the Petitioner said that O-T- sent them \$100 for food and stated that O-T- was nice to them. O-T- introduced the Petitioner to their mother on the phone in April 2017, after which the Petitioner returned to Minnesota and recounted how O-T- and their mother made plans for them to get married in [] 2017. The Petitioner submitted a subsequent statement in response to a request for evidence (RFE) issued by the Director; however, this statement did not expound upon details already contained in the record regarding the Petitioner's relationship with O-T- prior to their marriage. As noted in the Director's decision, much of these affidavits describe the abuse that the Petitioner suffered, rather than providing detail regarding the Petitioner's relationship, courtship, and their intent in marrying O-T-.

² We use initials to protect the identity of individuals.

³ The Director's decision indicated that the report was dated October 2017; however, that date is referenced as the "Print date" and further dates in the report reflect July 2017.

The Petitioner also submitted third party affidavits. These affidavits explain knowledge of the Petitioner's marriage to O-T-, and the abuse they suffered, but do not provide detail regarding the Petitioner's relationship, courtship, and their intent in marrying O-T-. Notably, the affidavit written by B-A-, the Petitioner's mother, indicated that the Petitioner called them in February 2017 to introduce O-T- as the Petitioner's fiancée, which conflicts with the Petitioner's timeline of their relationship with O-T-, as the Petitioner previously stated that they intended to continue the courtship with O-T- for at least 6 months after they moved to Minnesota. The Petitioner submitted additional third-party affidavits in response to the Director's RFE, but they express a general knowledge of the Petitioner's marriage to O-T- and do not provide insight into the Petitioner's courtship or intentions in marrying O-T-.

On appeal, the Petitioner submits a brief, an updated statement, documents relating to their previous marriage in Nigeria, a third-party affidavit, a psychosocial evaluation, and articles about domestic violence in Nigeria. The Petitioner notes in their brief that the Director erred in applying the "any credible evidence" standard found at 8 C.F.R. § 204.2(c)(2)(i) and ignored the Petitioner's statements that they were not able to provide documentary evidence as O-T- did not provide access to financial documents as they were controlling the Petitioner's life. The Petitioner states that "[v]ictims of domestic violence may not be able to obtain the sort of evidence generally available in family-based petitions and self-petitioners are not likely to have access to the range of documents available to the ordinary visa petitioner for a variety of reasons." We agree with this statement; however, the Director did not deny the petition as a result of the Petitioner failing to submit any specific documentary evidence. In the absence of documentary evidence, the Director relied on the Petitioner's statements, as well as those from third parties, and determined that these statements were insufficient to determine that the Petitioner married O-T- in good faith, as they lacked probative details regarding their courtship, relationship prior to the marriage, and the Petitioner's intent in entering the marriage with O-T-.

In reviewing the Petitioner's updated statement, they claim to have first met O-T- in December 2016, through a mutual friend, A-C-, at A-C-'s apartment complex in Minnesota, and that they started officially dating shortly thereafter in January 2017. This conflicts with previous statements in the record that indicate that the Petitioner either spoke to O-T- on the phone for the first time in December 2016, or that they did not meet until February 2017, as was indicated in their initial statement submitted with the VAWA petition. The Petitioner also states that O-T- was "ready to settle" and wanted to get married and that it felt like they were "a match made in heaven" and that they "connected on so many ways and shared a lot in common," and mentions a time when O-T- brought roses when they picked the Petitioner up from the airport. The Petitioner notes "plans together as a family" and achieving their "life goals as one." The Petitioner provides detail regarding the home where they resided together and states that they did the laundry, dishes, and made their bed. The Petitioner also recounts gifts given by O-T- and that they would go to O-T-'s mother's house after church on Sundays and recalls his favorite meal.

The Petitioner also submits additional photographs, but as noted in the Director's decision, photographs, without accompanying detail, are not considered significant evidence when determining whether the Petitioner entered the marriage in good faith. Additionally, the psychosocial evaluation provided on appeal echoes previous statements provided by the Petitioner in the record.

We note that the Director indicated in their decision that they considered the Petitioner's statements regarding their inability to obtain documentary evidence, and above agreed with the Petitioner's assertions that victims of domestic violence may face difficulties in obtaining such evidence. However, while the Petitioner has provided additional details regarding their life together outside of the abuse they suffered, we are unable to determine that they entered the marriage with O-T- in good faith. The Petitioner's statements in the record have separately indicated that they met O-T- either in late 2016 or early 2017, and very quickly moved from Georgia to Minnesota, and then married O-T- in [] 2017. The Petitioner also states that she wanted to continue courting O-T- for 6 months after moving from Georgia to Minnesota, but the affidavit provided by the Petitioner's mother indicated that O-T- was introduced to her as the Petitioner's fiancée in February 2017. The inconsistent timeline, combined with the brief nature of their courtship with O-T- prior to their marriage, raises questions about their intentions in marrying O-T- in good faith. Further, while we do not dismiss that the Petitioner was unable to obtain documentary evidence of their life with O-T-, the absence of documentary evidence results in additional weight being placed on the statements in the record. Here, as discussed, considering the absence of additional documentation, the inconsistent timeline of their relationship with O-T-, and the brief nature of their relationship prior to marriage, the Petitioner has not demonstrated by a preponderance of the evidence that they married O-T- in good faith. Further, while petitioners may submit any credible evidence relevant to the VAWA petition in order to establish eligibility under 8 C.F.R. § 204.2(c)(2)(i), we determine, in our sole discretion, the credibility of and weight given to all of the evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

Finally, the Director also determined that the Petitioner had not demonstrated that they had entered into a qualifying relationship with O-T-, as required by section 204(a)(1) of the Act. As the Petitioner's inability to establish that they married O-T- in good faith is dispositive of their appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments on this issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not established that they married their U.S. citizen spouse in good faith. Consequently, they have not demonstrated that they are eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.