



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

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

In Re: 28675232

Date: DEC. 05, 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. *See* section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident) (VAWA petition), concluding that the Petitioner did not establish that she had a qualifying relationship as the spouse of a U.S. citizen, was eligible for immigrant classification under VAWA, had resided with her U.S. citizen spouse, and entered into a qualifying relationship in good faith. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 the petitioner demonstrates, in part, that she was in a qualifying relationship as the spouse of a U.S. citizen, is eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(i)-(iii) of the Act. The petition cannot be approved if the petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws. 8 C.F.R. § 204.2(c)(1)(ix); *see also* 3 *USCIS Policy Manual* D.2(C), <https://www.uscis.gov/policy-manual> (explaining, as guidance, that the self-petitioning spouse must show that at the time of the marriage, they intended to establish a life together with the U.S. citizen spouse).

Evidence of a good faith marriage may include documents showing that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence, and experiences; birth certificates of any children born during the marriage; police, medical, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. 8 C.F.R. § 204.2(c)(2)(i), (vii). 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

### A. Relevant Background and Procedural History

The Petitioner applied for a visitor's visa to the United States and it was approved on February 27, 2018. The Petitioner's visa application stated she was married with three children. On March 14, 2018, the Petitioner entered the United States. The Petitioner married a U.S. citizen on [REDACTED] 2019, who filed a Form I-130, Petition for Alien Relative (family petition), on the Petitioner's behalf in April 2019. In January 2020, the Petitioner and her spouse were notified to appear for an interview and to bring supporting documents, including evidence of joint residence. They were interviewed in February 2020 and according to the decision denying the family petition, the Petitioner and her spouse were unable to establish a bona fide relationship. The Petitioner's spouse was unable to identify the Petitioner's date of birth, country of birth, the names of the Petitioner's children or their dates of birth, or the names of the Petitioner's parents. He also was unable to provide information about the joint sponsor on the family petition. Further the Petitioner was unable to identify the year her spouse was born, or the birthdate of one of her spouse's children. The Petitioner and her spouse were scheduled for a follow up interview in July 2020. The Petitioner's spouse did not attend the interview and the Petitioner testified that they were no longer living together. The family petition was denied as abandoned.

On July 25, 2020, the Petitioner filed the instant VAWA petition, as an abused spouse of a U.S. citizen. The Director issued a request for evidence (RFE) seeking, among other things, evidence that the Petitioner's prior marriage was legally terminated, that the Petitioner resided with her spouse, that she married her spouse in good faith, and that the Petitioner was abused by her U.S. citizen spouse during the qualifying relationship. In response to the RFE, the Petitioner submitted divorce documents issued by the Customary Court of [REDACTED] in Nigeria, which provides that the Petitioner filed for divorce on [REDACTED] 2018, several days after being issued a visitor's visa, and the judgment was issued on [REDACTED] 2018, a few days before she entered the United States. The Petitioner also provided an affidavit attesting to meeting her spouse in July 2018, moving in with him at his home in [REDACTED] Georgia (marital residence) in October 2018, getting engaged in November 2018, and moving to an apartment in [REDACTED] Georgia in March 2020 for work. She also explained that her spouse did not allow her to add her name to bills fearing it would interfere with the insurance payouts he received from his deceased wife's policy. She further stated that her spouse purposefully answered questions incorrectly during the interview associated with her family petition because he was upset with her. In support of the bona fides of the relationship and joint residence, the Petitioner provided photographs

of her and her spouse together on their wedding day and on four or five other occasions. She also submitted bank statements, and a third-party affidavit.

The Director denied the VAWA petition, determining, in relevant part, that the Petitioner had not established that she resided with her spouse. The Director stated that the documents submitted in support reference a post office box address, except for one of the bank statements, dated April 2019, which indicate the Petitioner and her spouse resided at the [redacted] Georgia apartment, which she did not claim moving to until March 2020. Further, the Director acknowledged that the Petitioner and her spouse shared a post office box address, but noted an explanation was not provided for why they chose to use an address to collect mail that was located 15 miles away from the marital residence and about 70 miles from the Petitioner's apartment. The Petitioner did not provide any document indicating she resided at the marital residence.<sup>1</sup>

The Director also determined that the Petitioner had not met her burden to establish she entered the marriage in good faith. The Director explained that the Petitioner's affidavit lacked detail regarding the courtship, i.e., shared experiences, interests, and values, her wedding ceremony, and memorable experiences in her married life to demonstrate she entered into her marriage in good faith. The Director also stated that the third-party affidavit she submitted similarly lacked detail that would shed light on her bona fide intent in marrying her U.S. citizen spouse. Further, the Director noted that the bank statements only evidence two transfers made by the Petitioner and appear to only have the Petitioner's spouse using the account, which was not sufficient to demonstrate commingling of resources or shared financial responsibilities generally associated with a bona fide marriage.

#### B. The Petitioner Has Not Established She Resided with Her U.S. Citizen Spouse or Entered into the Marriage in Good Faith

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that she entered into the marriage with the U.S. citizen spouse in good faith, and not for the primary purpose of circumventing the immigration laws, and resided with her spouse or intended spouse. Section 204(a)(1)(A)(i)-(iii) of the Act; 8 C.F.R. § 204.2(c).

On appeal, the Petitioner submits a brief, additional documents relating to the Nigerian divorce, a medical bill, photographs of two online orders, and an affidavit. The Petitioner explains that the marital residence was owned by her spouse and there was no mortgage or rent to be paid, that all utility bills were already in her spouse's name, that her spouse refused to add her to bills and he insisted on using a post office box to control her. The Petitioner, however, did not explain how her spouse's insistence on the use of a post office box was controlling. The Petitioner asserts the submission of the medical bill satisfies her burden of establishing her shared residence with her spouse because it is addressed to her at the marital residence. This one medical bill, however, in and of itself, does not

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<sup>1</sup> The Director's decision denying the VAWA petition states that the Petitioner references two individuals who submitted third party affidavits attesting to her joint residency but the affidavits were not included with her RFE response. We note that letters signed by the two individuals were submitted in connection with the Petitioner's family petition. One is dated July 1, 2020, has a notary stamp but is not properly notarized, and states the Petitioner and her spouse reside in [redacted] Georgia, not the marital residence. The other letter is dated June 20, 2020, not notarized, and makes no reference to where the Petitioner resides, stating, "I see them mostly on weekends together at the [redacted]" These documents are not sufficient to establish the Petitioner resided at the marital residence with her spouse.

establish by a preponderance of the evidence that the Petitioner resided with her spouse. For example, the Petitioner does not describe what evidence she submitted to the hospital to have her bill sent to the marital residence. Moreover, the document was issued after the Petitioner was notified that she needed to provide evidence establishing her joint residence with her spouse and the medical establishment is approximately 50 miles away from the marital residence.<sup>2</sup> These issues diminish the evidentiary value of the document. Similarly, the printouts showing that two items were purchased and sent to the Petitioner at the marital address does not carry the same evidentiary weight as utility bills, for example, where there are requirements that need to be met prior to associating someone with an address.<sup>3</sup>

The Petitioner contends that the Director's decision overlooks the difficulties VAWA applicants face in collecting documents, corroborating evidence, and affidavits from third parties in support of their case. While we recognize the difficulties the Petitioner may have faced in collecting evidence, we note that the Petitioner did not explain what evidence exists to establish her joint residence with her U.S. citizen spouse and why she is unable to obtain the evidence. Further, the Petitioner does not explain why one of the joint banking statements was sent to her apartment a year before she claimed to live there. A self-petitioner cannot meet the residency requirement by merely visiting the spouse's home while maintaining a general place of abode or a principal dwelling place elsewhere. *See generally* 3 *USCIS Policy Manual* D.2(F) (explaining, as guidance, the residency requirements with the abusive relative). For these reasons, the Petitioner has not established she resided with her U.S. citizen spouse.

The Petitioner relies on the aforementioned evidence to establish she entered into her marriage in good faith. As discussed above, the Petitioner and her spouse were unable to establish the bona fides of their marriage during the interview connected with the family petition. While the Petitioner explained that her spouse purposefully answered questions incorrectly, she did not explain why she was unable to provide details about her spouse. The Petitioner argues that the Director did not give any weight to her self-affidavits and photographs. As discussed above, the Director explained how the Petitioner's affidavits lacked sufficient detail about her relationship and marriage. Further, while the Petitioner's photographs evidence her with her spouse on four or five occasions, they are not date stamped. While the Petitioner explains where they were in the photographs, very little context is shared by the Petitioner about what was happening in the photographs, who was with them, why the photographs were taken, or why only these photographs were submitted to establish a relationship that allegedly spanned from July 2018 to March 2020.

In her affidavit, the Petitioner asserts that the filing of the family petition demonstrates their shared goals. However, the Petitioner does not explain how her spouse filing a petition on her behalf demonstrates that they entered into the marriage in good faith. The Petitioner further contends that the submitted bank statements establish that they shared finances and highlights some charges on the statements as joint expenses, such as when she had her nails treated. However, we note that these purposefully selected bank statements do not evidence bills or utilities being paid out of the account or other transactions evidencing commingling of resources or shared financial responsibilities. In response to the issues raised in the Director's decision regarding the joint bank account, the Petitioner

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<sup>2</sup> Information obtained from publicly available resources.

<sup>3</sup> We note that the Petitioner also asserts that the family petition contained their marital residence and establishes that she resided with her spouse. However, the family petition lists the mailing address as the couple's post office box.

explained that she did not deposit money regularly into the shared bank account because she was not working and when she began working there was “no opportunity” to use the account. The Petitioner does not explain what she means when she states there was “no opportunity” to deposit her pay checks into the joint account. As discussed above, while 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). We have reviewed the record in its entirety and conclude the Petitioner has not established by a preponderance of the evidence that she resided with her spouse or entered into her marriage in good faith. As these issues are dispositive of her appeal, we decline to reach and hereby reserve the Petitioner’s other appellate arguments. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); *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 the applicant did not otherwise meet their burden of proof).

### III. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence that she is eligible for immigrant classification under VAWA.

**ORDER:** The appeal is dismissed.