



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

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

In Re: 26349332

Date: JUNE 7, 2023

Motion on Administrative Appeals Office 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 initially approved the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition) and subsequently revoked approval, upon notice. We dismissed a subsequent appeal. The matter is now before us on motion to reconsider. 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). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

The issue before us is whether the Petitioner has established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy. We find that the Petitioner has not established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision.

The Petitioner married his U.S. citizen spouse, H-G-,¹ in [] 2014. His VAWA petition was approved in 2015. The Director revoked approval of Petitioner's VAWA petition in June 2021. The Director detailed that "discrepant information has been discovered that calls into question the validity of the statements provided and that you may have provided fabricated evidence, to support your claim that you married your spouse in good faith, that you shared a residence with your spouse, during your marriage and that your spouse abused you." The Director's decision described the facts and the procedural history of the Petitioner's case in great detail, and we again incorporate it by reference here.

¹ Initials are used to protect the privacy of this individual.

The Director concluded that the Petitioner did not establish a good faith marriage to H-G-, joint residence with his spouse, or that he was subjected to battery or extreme cruelty during the marriage.

In our decision to dismiss the appeal, we determined that the Petitioner has not met his burden of establishing he married H-G- in good faith. In summary, we found that the Petitioner's affidavits addressed his initial courtship with H-G- in a vague and general manner and offered little insight into the relationship prior to and during their marriage and did not contain sufficient detail demonstrating his intent in entering marriage with H-G-. The third-party affidavits were similarly vague regarding the Petitioner's courtship and marriage to H-G- and did not provide detailed and specific descriptions of shared experiences and interactions between the Petitioner and H-G-. We further concurred with the Director that the submitted car insurance policy and bank statements did not demonstrate shared financial responsibilities or commingled funds that were indicative of a good faith marriage because they reflected minimal transactions related to shared financial responsibilities and captured limited interactions between the Petitioner and H-G-. We concluded that the Director's revocation of the approval of the Petitioner's VAWA petition was proper.²

On motion to reconsider, the Petitioner maintains that USCIS erred in concluding that he and H-G did not reside together during the course of their marriage, and that the USCIS' reliance on testimony from an individual regarding the issue of joint residence was "inherently untrustworthy" as it stemmed from H-G-, "the abuser spouse in the VAWA case." The Petitioner also asserts that USCIS erred in concluding that the marriage was not entered in good faith because the Petitioner is a commercial truck driver and was rarely able to spend extended periods of time at their shared residence but the record contained statements from close friends in support of the good faith marriage between the Petitioner and H-K-.³ In support, the Petitioner submits duplicate documents that had been previously submitted in response to the Director's April 2021 Notice of Intent to Revoke the Petitioner's VAWA petition.

The documents submitted with the instant motion were previously reviewed and considered, by the Director and this office, when rendering the decisions to revoke the VAWA petition and dismiss the Petitioner's appeal. As we detailed in our decision to dismiss the appeal, the affidavits in the record do not sufficiently demonstrate the Petitioner's intention in entering marriage or the *bona fides* of his marital relationship. The Petitioner's affidavits provide little detail of mutual interests or circumstances and events demonstrating the Petitioner's involvement prior to or during the marriage. The affidavits also do not offer any specific information regarding the Petitioner's residence with H-G-, such as details of the residence, home furnishings, daily routines, or any of their belongings.

² Regarding the Director's findings that the Petitioner had not met his burden of establishing his joint residence with H-G- and that he was subjected to battery or extreme cruelty during the marriage, as required under sections 204(a)(1)(A)(iii)(II)(dd) and (III)(bb) of the Act, we determined on appeal that since the identified basis for revocation was dispositive of this matter, we declined to reach and hereby reserved the Petitioner's arguments regarding whether he had also demonstrated joint residence and that he was subjected to battery or extreme cruelty. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "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 the noncitizen is otherwise ineligible).

³ The record indicates that in February 2023, approximately seven months after the instant motion to reconsider was filed, the Petitioner submitted supplemental documentation in support of the instant motion. The Form Instructions for the I-290B require that "[f]or motions, you must file any brief and/or additional evidence together with Form I-290B." Form Instructions carry the weight of regulations. See 8 C.F.R. § 103.2(a)(1). Therefore, we will not consider or address the supplemental documentation submitted months after the Form I-290B was filed.

The third-party affidavits in the record are similarly vague regarding the Petitioner's courtship and marriage to H-G-. With regard to the photographs in the record, they depict the Petitioner and H-G- together but do not otherwise provide context for or insight into things the couple did together and their shared experiences. As for the financial documentation in the record, it does not establish the commingling of resources and shared financial responsibilities normally associated with a bona fide marriage. The majority of the bills provided only reference the Petitioner or H-G- and thus do not establish shared responsibilities. As for the auto insurance bill that references both the Petitioner and H-G, it is dated February 12, 2015, after the Petitioner states he was no longer living with H-G.

The Petitioner has not established on motion that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. The approval of the Petitioner's VAWA petition will remain revoked.

ORDER: The motion to reconsider is dismissed.