



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

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

In Re: 28586625

Date: NOV. 14, 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* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 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 petition, concluding that the Petitioner lacked credibility and did not establish that he entered his marriage with a U.S. citizen in good faith, resided with his U.S. citizen spouse, or that he had been the victim of battery or extreme cruelty during the qualifying relationship. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner states that he has met the preponderance of the evidence standard for VAWA eligibility and that the Director did not properly review the documentation provided in response to their request for evidence.

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 VAWA petitioner must establish, among other requirements, that they entered into the qualifying marriage to the U.S. citizen spouse in good faith, and not for the primary purpose of circumventing the immigration laws. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). 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 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 such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

The Petitioner, a citizen and national of India, entered the United States as a non-immigrant visitor in 2014 and has not departed. He married B-R-<sup>1</sup>, a U.S. citizen, and filed the current VAWA petition based on that relationship. B-R- filed a Form I-130, Petition for Alien Relative, on behalf of the Petitioner following their marriage. During the petition process the Petitioner was interviewed at the USCIS Philadelphia, Pennsylvania Field Office. The Petitioner was placed under oath and provided sworn testimony regarding his relationship with B-R-. During that interview the Petitioner claimed to have started dating B-R- in January 2018 and provided additional details regarding his courtship and married life with B-R-. Also as part of the petition process, USCIS Immigration Officers conducted an administrative site visit at the Petitioner's claimed marital address in May of 2021. The Officers interviewed two individuals currently living in the residence regarding their knowledge of the Petitioner's relationship with B-R-. The individuals stated that the Petitioner was their nephew and he had not lived at that address for a long time. The individuals were asked to view photographs and identify their nephew's spouse but could not identify B-R-'s photograph despite claiming to have lived with their nephew and his spouse for more than a year.

The Director reviewed the above information and the evidence provided with the VAWA petition and identified unexplained inconsistencies in the record. The Director issued a request for evidence (RFE) identifying the specific inconsistencies in the record and providing the Petitioner with an opportunity to respond. In response, the Petitioner provided affidavits from third parties, additional bank statements, additional life insurance documentation, utility bills for the claimed marital address, and a brief from his attorney. The Petitioner did not provide a personal statement or statements from his uncle and aunt regarding the site visit. The Director determined that due to discrepancies between the Petitioner's testimony at interview, the evidence provided with the VAWA petition, and the information received during the site visit, that the Petitioner lacked credibility and did not establish that he resided with his U.S. citizen spouse, entered his marriage in good faith, or that he had suffered battery or extreme cruelty during the qualifying relationship. The Director also notified the Petitioner of the need to provide evidence to support the claims made by his attorney unless his attorney has first-hand knowledge of the events in question.

On appeal, the Petitioner resubmits evidence provided to the Director and states that he has met the preponderance of the evidence standard for eligibility under VAWA. Upon de novo review, the Petitioner has not provided a sufficient explanation of the inconsistencies in the record or the testimony of his relatives during the administrative site visit. The Petitioner's attorney claims that the relatives USCIS interviewed do not speak English well and became confused by the questions of the investigators. Notably, neither the Petitioner nor his relatives have addressed the administrative site visit. Instead, the Petitioner's attorney makes assertions and statements that are unsupported by the record in an attempt to dismiss the Director's determination that the Petitioner lacks credibility. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N

---

<sup>1</sup> We use initials to protect the privacy of individuals.

Dec. 49, 51 (BIA 1998) (“statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight”).

In addition to the site visit, the Director identified additional inconsistencies in the record between the Petitioner’s sworn statement at the time of his interview at the Philadelphia, Pennsylvania Field Office and the written statement provided in support of his VAWA petition. The Petitioner stated during his interview that his first date with B-R- occurred in January 2018 at [REDACTED]. However, in his personal statement to the Director, the Petitioner stated that they did not meet B-R- until March 2018 and had their first date on his birthday in [REDACTED] 2018 at [REDACTED]. Additionally, the Petitioner stated during his interview that he proposed to B-R- at a Chinese restaurant in December 2018. However, in his personal statement the Petitioner claimed that he proposed to B-R- at an amusement park in October 2018. The Petitioner has not provided an explanation for these inconsistencies on appeal but states through his attorney that the affidavits from the Petitioner’s friends regarding his relationship and the previously submitted life insurance documents and bank statements should be sufficient to meet his burden of proof regarding his intent in entering his marriage with B-R-. As stated, the Petitioner must prove eligibility for the requested immigration benefit by a preponderance of the evidence. To satisfy this standard of proof, the Petitioner must show that his claims are “more likely than not” or “probably” true. *Matter of Chawathe*, 25 I& N Dec. at 375-76. To determine whether the Petitioner has met this burden we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm’r 1989).

Moreover, the Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). On appeal, the Petitioner does not explain the discrepancies pointed out by the Director, nor does he address the administrative site visit to his claimed marital address. We cannot therefore conclude, based on the above evidence, that the Petitioner and his spouse “more likely than not” entered their marriage in good faith. Furthermore, unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.* Given the unexplained discrepancies in this case, the remaining documentary evidence lacks the probative value necessary for the Petitioner to meet his burden of proof.

Similarly, while we acknowledge the previously submitted affidavits, we cannot give them significant weight in establishing good faith marriage. When affidavits are submitted to substantiate a claim, we evaluate their probative value based on the extent of the affiants’ personal knowledge of the events they attest to, and the plausibility, credibility, and consistency of their statements with each other and evidence in the record. *Matter of E-M-*, 20 I&N Dec. at 81. The affidavits the Petitioner submitted do not satisfy the above criteria, because they directly contradict the Petitioner’s own statements made during his interview with USCIS regarding his first date and where and when he proposed to B-R-. Based on the forgoing, the Petitioner has not established, by a preponderance of the evidence, that he entered his marriage with B-R- in good faith, as required. Section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Because the Petitioner is not eligible for the requested immigrant classification on this basis alone, we need not address at this time whether he meets the remaining eligibility criteria for such classification. *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 an applicant is otherwise ineligible).

The Petitioner has not met his burden of proof to establish that he married his U.S. citizen spouse in good faith. Consequently, he has not demonstrated eligibility for the requested immigrant classification as an abused spouse of a U.S. citizen under the VAWA provisions.

**ORDER:** The appeal is dismissed.