



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

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

In Re: 28745183

Date: NOV. 16, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse 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). 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 Abused Spouse of U.S. Citizen (VAWA petition) concluding that the record did not establish the Petitioner entered into a good faith marriage or that the Petitioner was battered or had been subject to extreme cruelty perpetrated by the U.S. citizen spouse during the qualifying relationship.¹ On appeal, the Petitioner submits additional evidence and asserts that he has established eligibility for the benefit sought.

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 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).

¹ We note that the Director did not discuss the Petitioner's claims of battery or extreme cruelty.

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of Bangladesh, married T-W-² a U.S. citizen, in [REDACTED] 2018. In February 2020, he filed the instant VAWA petition based on this marriage. The Director denied the petition, determining, in pertinent part, that the Petitioner had not demonstrated that he entered into the marriage with T-W- in good faith. The Director explained that neither the Petitioner's self-affidavit nor any of the supporting affidavits contained probative details regarding the courtship, intent on getting married, or shared interests and activities, details regarding the residence, home furnishings, daily routines or any belongings; the documentary evidence provided was insufficient to establish a commingling of financial resources, as the bank statements from a claimed joint account did not show that they were actively used and maintained by both the Petitioner and T-W-, and the bank statements were not addressed to the claimed shared residence during the requisite period; there was no evidence that the tax documents were filed with the Internal Revenue Service (IRS); and photographs capturing one-time events without thorough explanations did not merit much evidentiary weight. The Director noted that the [REDACTED] utility bill submitted by the Petitioner was "altered for the purpose of fabricating the appearance of a good faith marriage and shared residence."³ The Director concluded that the Petitioner willfully submitted a fake/fraudulent document, and consequently the evidence provided was deemed not credible. This [REDACTED] utility bill issued in November 2019, listed T-W- and M-H-, the Petitioner's cousin, but not the Petitioner.

On appeal, the Petitioner re-submits several documents. He also submits the following new documents: a self-affidavit, copies of previously submitted photographs updated with descriptions, January 2021 [REDACTED] utility bill addressed to T-W- and M-H-, 2022 letter from the IRS addressed to the Petitioner and 2021 letter from the IRS addressed to T-W- and the Petitioner.

The Director's decision is incorporated here by reference. On appeal, the Petitioner reasserts his claim that he married T-W- in good faith. The arguments made by the Petitioner on appeal are not sufficient to establish his good faith marriage to T-W-. The Petitioner claims that the [REDACTED] utility bill was issued to T-W- and M-H- because M-H- lived in the apartment,⁴ and the Petitioner did not have a social security number and the required identification necessary to put himself on the [REDACTED] utility bill. The Petitioner further argues that it was not far-fetched or suspicious that the cohabitating cousin's name would appear on the [REDACTED] utility bill. With regards to the bank statements that were addressed to a residence different from the marital home, the Petitioner contends that he was forced to use a different address because there was a fraud issue with this account.

On appeal, the Petitioner argues that the Director improperly discounted all the evidence in the record because of the Director's conclusion that the Petitioner willfully submitted a fake/fraudulent [REDACTED] utility bill. To counter this argument, the Petitioner submitted a January 2021 [REDACTED] utility bill addressed only to T-W- and M-H-. However, the record reflects that by January 2021, the Petitioner was

² We use initials to protect the privacy of individuals.

³ We note that the Director did not determine that the Petitioner failed to establish eligibility under the shared residence criterion, but instead focused the discussion on the lack of a good faith marriage.

⁴ The Petitioner previously disclosed that because M-H- resided in the apartment, T-W-'s minor child lived with T-W-'s mother because there was no space for the child in the marital home.

issued an Employment Authorization Document⁵ and a social security number.⁶ Therefore, the Petitioner has not explained why he was not added to the [REDACTED] utility bill when the reasons for his initial barrier to being added were already removed prior to January 2021. In his affidavit sworn to in May 2023, the Petitioner states that T-W- “still lives with and resides with me.” Therefore, the Petitioner has not established why both he and T-W- are still not listed on the [REDACTED] utility bill together. And as the Director notes, there is no evidence of who is responsible for maintaining and paying for this service. A utility bill listing a petitioner and an abusive spouse is evidence of a good faith marriage. However, here the evidentiary weight given to the [REDACTED] utility bill is diminished where only one party is listed even without the Director’s conclusion about its authenticity. On appeal, the Petitioner resubmits 6 photographs updated with descriptions. Only the wedding photograph is dated, and all the photographs are close ups of the Petitioner’s and T-W-’s face and torso so that they do not show the places where the photographs are taken, if they were socializing with others, or if they were taken over a period of time. Thus, while the photographs indicate that the Petitioner and T-W- were together at a particular time and place, they do not establish that the Petitioner entered into his marriage in good faith. On appeal, the Petitioner states that he met T-W- when they worked together, and that he was recovering from a bad marriage that ended in divorce. He states that T-W- healed him and made him feel loved and safe. The Petitioner reports that he was getting older and wanted stability and a family. However, the Petitioner has not offered any probative details about his good faith marriage intentions. And he does not provide a detailed discussion of the courtship, the wedding ceremony, and their day-to-day routine after marriage.

We acknowledge the 2021 and 2022 IRS letters addressed to the Petitioner and T-W-, and consequently withdraw the Director’s finding that there is no corroborating evidence that the Petitioner and T-W- filed joint taxes. However, we concur with the Director that in light of the discrepancies associated with the [REDACTED] utility bill, the other supporting documentation including photographs, and bank statements hold diminished evidentiary weight. On appeal, the Petitioner did not overcome the Director’s determination that the [REDACTED] utility bill was altered. A material misrepresentation requires that the alien willfully make a material misstatement to a government official for the purpose of obtaining an immigration benefit to which one is not entitled. *Matter of Kai Hing Kui*, 15 I&N Dec. 288, 289-98 (BIA 1975). The term “willfully” means knowing and intentionally, as distinguished from accidentally, inadvertently, or in an honest belief that the facts are otherwise. *See Matter of Healy and Goodchild*, 17 I&N Dec. 22, 28 (BIA 1979). The misrepresentation was willfully and knowingly made by the Petitioner when he submitted the [REDACTED] utility bill to USCIS. The Petitioner also signed the VAWA petition, certifying under penalty of perjury that it and the submitted evidence were all true and correct. *See* section 287(b) of the Act, 8 U.S.C § 1357(b); *see also* 8 C.F.R. § 103.2(a)(2).

On appeal, the Petitioner argues that he has provided “ample genuine and credible evidence to support the fact that he and his wife entered in to (sic) a bona fide marriage with the intention of creating a life together and did in fact reside together.” We note under the “any credible evidence” standard of proof for VAWA petitions, we must consider any credible evidence relevant to a VAWA petition. However, 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). Here, we find no error in the Director’s determination, and we agree that the record lacks specific, probative details that provide insight into

⁵ Employment Authorization Document valid from June 30, 2020 to June 29, 2021.

⁶ The Petitioner indicated that he filed federal tax returns from as early as 2000 using a social security number.

the Petitioner's involvement with T-W- prior to their marriage and their decision to marry.

Both the Act and regulations enumerate good faith marriage as a distinct eligibility requirement for immigrant classification under VAWA. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). *See also* 8 C.F.R. § 204(c)(2)(vii) (providing a non-exhaustive list of the types of evidence that a VAWA petitioner may provide to establish their good faith marriage to the abusive spouse); *Matter of Chawathe*, 25 I&N Dec. at 375 (explaining that a petitioner must establish that they satisfy each eligibility requirement for the benefit sought by a preponderance of the evidence). The Director determined that the Petitioner had not established a good faith marriage or that the Petitioner was battered or had been subject to extreme cruelty perpetrated by the U.S. citizen spouse during the qualifying relationship, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act. As the Petitioner's inability to establish that he married T-W- in good faith is dispositive of his 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).

In conclusion, the Petitioner has not established that he entered into the marriage to his U.S. citizen spouse in good faith. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.