U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28842176

Date: NOV. 29, 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 entered his marriage 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

An individual who is the spouse of a U.S. citizen may self-petition for immigrant classification under VAWA if the individual demonstrates, among other requirements, that they entered into the qualifying marriage to the abusive 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); *see generally* 3 *USCIS Policy Manual* D.2(C), https://www.uscis.gov/policy-manual (explaining, in policy 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

The Petitioner, a native and citizen of Nigeria, entered the United States in December 2016 on a visitor visa. He filed the instant VAWA petition in April 2019 based on a claim of battery and extreme cruelty by his U.S. citizen spouse, R-W-.[1] In the record before the Director, the Petitioner explained that he was "downcast and empty" after his divorce from his first wife, which was finalized in [redacted] 2017, and that he moved to [redacted] Indiana, after a friend's invitation. He stated that he met R-W- in January 2017 when he visited the leasing office of an apartment complex, and R-W- offered to help him fill out paperwork for leasing an apartment. The Petitioner stated that they started courting a week after they met, and they went to Applebee's restaurant "and got along as if [they had] dated for years." The Petitioner stated that this location became their "usual hang out" due to its proximity to where they lived. He further indicated that they "were inseparable" and would get groceries and go to the laundromat together. He explained that they met each other's friends and since they lived in the same apartment complex, they saw each other "practically everyday" and that R-W- moved in with him in February 2017. The Petitioner stated that "one great night" in April 2017, R-W- proposed marriage to him, to which he agreed, and they were married in [redacted] 2017. When discussing the wedding, the Petitioner noted that it was at the circuit court in [redacted] Indiana, and that "it was attended by few friends and [R-W-'s] close friend along with her God mother" after which they had a reception at Applebee's and then returned to their apartment.

The Petitioner claimed that at the initial stage of the relationship, it was "blissful" and noted that he took R-W- out on regular dates, "visiting lovely and fascinating places together visiting spas and gyms together and eateries" and claimed that others envied their relationship and wished them well. The Petitioner stated that he did not meet much of R-W-'s family, but that he had a close relationship with R-W-'s two children, who he stated lived with them.

While his Form I-360, Petition for Amerasian, Widow(er), or Special Juvenile (VAWA petition) was pending, the Director issued a request for evidence (RFE). In the RFE, the Director informed the Petitioner of an investigation conducted by U.S. Citizenship and Immigration Services (USCIS) and noted several inconsistencies between the Petitioner's statements, documents included as evidence, and the results of the investigation. The Director also discussed the initial evidence submitted by the Petitioner with his VAWA petition, and explained why it was insufficient to establish that he married R-W- in good faith. The Director's RFE recounted the investigation and noted that the Petitioner claimed to reside with R-W- at [redacted] Indiana, from February 1, 2017, until the date of signing his VAWA petition in April 2019, and indicated that he lived at that address with R-W- and her two children. On February 8, 2019, during the period of claimed joint residence, USCIS investigators visited the leasing office of the apartment complex and were provided a copy of the Petitioner's lease agreement, which only contained the Petitioner's information for the period of March 1, 2018, to February 28, 2019. Upon questioning, the leasing agent stated that she was familiar with R-W-, but that she was sure that R-W- was not residing at the claimed shared address. When the investigators visited the claimed shared address, two individuals were interviewed

[1] We use initials to protect the identity of individuals.

and claimed to live at the residence with their child, the Petitioner, and his wife; however, these individuals were not able to provide the contact information for the Petitioner or R-W-. The Director recounted the Petitioner's statement that he and R-W- began dating in January 2017, and that R-W- moved in with him in February 2017, and that the Petitioner further stated that he lived with R-W- and her two children. The Director noted that the Petitioner's statements provided minimal details regarding their shared residence, such as their day-to-day life in the home, how household bills were paid and by whom, and noted that the individuals at the claimed shared address did not mention R-W-'s children residing at the claimed shared address.

The Director further discussed the fact that the Petitioner, his ex-wife, and their children appeared together at their non-immigrant visa interview in October 2016, after they had filed for divorce, and a Decree Nisi had been issued. The Director noted that a further divorce decree between the Petitioner and his ex-wife had been issued in the state of Indiana in [redacted] 2020.

In response to the Director's RFE, the Petitioner submitted an updated statement and additional evidence. In the Petitioner's updated statement, he contended that there was no issue with holding himself out as married to the United States consular officers during his non-immigrant visa interview because the divorce was not yet finalized, and in Nigeria, the Decree Nisi allows for time for a couple to reconcile the marriage. The Petitioner further asserted that R-W- was not present on his lease agreement because R-W- had lived around the area for her whole life and had a history with the workers and leasing agents of the apartment complex, and that he was told that it's not possible to add R-W- to the lease "because she is bad news." Regarding the other individuals residing in the claimed shared address, the Petitioner stated that he had previously mentioned these friends, and that they were witness to the abuse he suffered at the hands of R-W-. The Petitioner contends that the investigators must have taken pictures of children's clothing and photographs of them in the apartment and noted that neighbors had attested to the children being noisy and maintenance staff attributing issues in the apartment to R-W-'s children. The Petitioner stated that he and R-W- jointly run a bank account and that their joint account was "solely designed and crafted for the smooth running of family needs such as house rent, kids' upkeep, and other miscellaneous expenses." He stated that R-W- held the debit and credit cards, and that he only used the withdrawal booklet.

The Petitioner's updated statement again recounted that he met R-W- in the leasing office of his apartment complex and stated that they started talking "as if [they] had known each other for a long time." He stated that R-W- showed him the neighborhood and talked about each other, and that "subsequent days, weeks thereafter" he went to R-W-'s apartment where he mentions meeting two dogs and R-W-'s two children and included that R-W- took him downtown and "many other places."

Ultimately, the Director denied the VAWA petition. In the Director's decision, she discussed the Petitioner's updated statement, and noted that he submitted a copy of a purchase receipt for a car, car insurance card, and life insurance statements that showed both the Petitioner and R-W-'s names. The Director's RFE had previously noted that the Petitioner submitted statements from a joint bank account but noted that the bank statements did not reflect that he and R-W- regularly used the account to pay shared bills or deposit income, as the only income deposits appeared to come from the Petitioner's employment. As such, the Director determined that the evidence was insufficient to determine that the Petitioner and R-W- had commingled their finances. The Director discussed the lease agreement for the claimed shared address and noted that R-W- was not included on the lease, and that, although

one of the forms submitted stated that there were three occupants and another stated that there were four, these documents did not include any of the names of the occupants of the claimed shared address. The Director noted that the Petitioner had included photographs but stated that it appeared that the photographs were from two occasions, and as such were insufficient to establish their intentions when entering into the marriage. The Director reviewed an evaluation and multiple third-party affidavits submitted by the Petitioner but concluded that they did not provide probative details regarding the inception of his relationship that would provide insight into his intentions when entering into his marriage, and afforded their statements minimal evidentiary value for purposes of establishing that he entered the marriage in good faith.

On appeal, the Petitioner submits a brief, and two additional letters of support. In his brief, regarding the requirement that he establish that he entered his marriage in good faith, the Petitioner contends that he "submitted ample, reliable evidence that meets the required preponderance of the evidence standard and resolves any inconsistencies identified in the Request for Evidence." He contends that the evidence previously submitted establishes his intent at the time of the marriage to establish a life together, which is represented by his personal statements, life, car, and renter's insurance, photographs, affidavits, the lease agreement, joint bank statements, and an IRS statement. The Petitioner contends that he is not required to present a "bullet-proof case" but only meet the requirement of a preponderance of the evidence, and finally contends that that "any inconsistencies found during USCIS' site visits were not provided . . . in sufficient detail to provide him with a reasonable opportunity to respond." In our de novo review of the record, we disagree with the Petitioner.

In our review of the Petitioner's statements in the record, we determine that he has not provided sufficient detail regarding their courtship and married life to establish that he married R-W- in good faith. As discussed above, the Petitioner noted that he met R-W-, and they began dating a week later, and that she moved in with him shortly after that. The Petitioner's statements mention visiting a specific restaurant, that they were inseparable, and that they went grocery shopping and visited the laundromat together. The Petitioner stated that he and R-W- saw each other "practically everyday" and that when they started dating it was "as if [they] had known each other for a long time" and that he met some members of her family, and her children. However, the Petitioner's statements, combined with the brief nature of their courtship, are insufficient to establish that he entered the marriage in good faith. The Petitioner states that others were envious of them but does not discuss why they decided to get married, and further does not provide specific, probative details regarding their courtship and decision to get married, or what their married life was like prior to the abuse.

Although the Petitioner has previously submitted evidence, as outlined above and reviewed in the Director's decision, the Petitioner has not overcome the determinations that resulted from USCIS' investigation. The Petitioner in his appeal brief includes his lease agreement as evidence of his good faith marriage, but as has been discussed, the agreement does not include R-W-'s name and is therefore afforded minimal weight. While his statement in response to the Director's RFE indicated that R-W- wasn't included on the lease agreement due to her relationship with the leasing agents, he has not provided any documentation to support his assertion, and as the Director noted, when USCIS investigators spoke to the leasing agent, they stated the R-W- did not reside in the claimed shared residence. Although we additionally acknowledge the evidence previously provided by the Petitioner,

he has not sufficiently explained the inconsistencies noted in the Director's decision or provided further evidence to refute the Director's conclusions.

Regarding his contention that he was not provided sufficient information regarding the USCIS investigation, the Petitioner cites 8 C.F.R. § 103.2(b)(16)(i), which states that if a decision will be adverse to the petitioner and based on derogatory information of which they are unaware, USCIS is required to advise them of the derogatory information and provide an opportunity to rebut it before rendering a decision. USCIS is not, however, required to provide the petitioner with an exhaustive list or copy of the derogatory information. *See generally Matter of Obaigbena*, 19 I&N Dec. at 536 (stating that if an adverse decision will be based on derogatory information of which the petitioner is unaware, "the petitioner must be so advised . . ." and must have a "reasonable opportunity to rebut the derogatory evidence cited in" a NOID); *Ogbolumani v. Napolitano*, 557 F.3d 729, 735 (7th Cir. 2009) (explaining that 8 C.F.R. § 103.2(b)(16)(i) "does not require USCIS to provide, in painstaking detail, the evidence of fraud it finds" and that a NOID provided sufficient notice and opportunity to respond to the derogatory information); *Hassan v. Chertoff*, 593 F.3d 785, 787 (9th Cir. 2010) (concluding that 8 C.F.R. § 103.2(b)(16)(i) requires only that the government make a petitioner aware of the derogatory information used against them and provide an opportunity to explain; "[t]he regulation . . . requires no more of the government."). The Director issued the RFE, which recounted the details of the investigation and provided the Petitioner the opportunity to address the derogatory information. As such, we determine that the Director did not err.

Although the Petitioner submits an updated letter in support from O-B-, one of the individuals also residing at the claimed shared residence, the letter only describes the reasons why the Petitioner asked O-B- and their spouse to live in the apartment and does not provide any relevant detail regarding the Petitioner's intentions in marrying R-W-.[2] As the Petitioner has not overcome the inconsistencies noted by the Director, and further has not provided relevant, probative detail in his prior statements regarding his courtship and marriage with R-W-, we conclude that he has not established, by a preponderance of the evidence, that he entered the marriage with R-W- in good faith.

The Director also denied the VAWA petition on other grounds, concluding that the Petitioner had not established that he had entered into a qualifying relationship with R-W-, or that he had established that they shared a residence. We need not reach, and therefore reserve, the Petitioner's arguments on appeal regarding the qualifying relationship and shared residence requirements. *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).

ORDER: The appeal is dismissed.

[2] The Petitioner also submitted a letter in support from B-O-, which discusses the arrangement for payment of child support to the Petitioner's ex-wife, and does not include any statements from B-O- regarding the Petitioner's relationship with R-W-.