



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

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

In Re: 27859924

Date: SEPT. 26, 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 Form I-360 (VAWA petition), concluding that the Petitioner did not provide sufficient credible evidence to establish that he entered into the marriage with his U.S. citizen spouse in good faith, resided with her, and was battered or subjected to extreme cruelty perpetrated by his spouse. The matter is now before us on appeal.

On appeal, the Petitioner references previously provided evidence, and he asserts that Director applied an incorrect standard of proof in evaluating this evidence and did not give proper weight to the affidavits he submitted.

The Petitioner bears the burden of proof to demonstrate eligibility for the benefit sought 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 record shows that the Petitioner, a national of Georgia, entered the United States as a temporary nonimmigrant visitor in February 2018, and that he married S-S-,¹ a U.S. citizen, in [] 2018.² In April 2019, the Petitioner filed the instant VAWA petition based on this marriage, claiming that he and S-S- resided together from the day of their wedding ceremony in [] 2018 until January 1, 2019, at an apartment in [], New York ([]).³ On the VAWA petition and on his concurrently-filed Form I-485, Application to Register Permanent Residence or Adjust Status, the Petitioner claimed that his new residential address was on the same street and in an identical apartment number but at a different street number []. His initial evidence to show his good-faith entry into marriage consists of: his March 2019 personal statement; his New York State driver's license issued in April 2018 showing he was residing on [] New York; his New York Certificate of Marriage Registration, showing that at the time of his marriage in [] 2018, he and S-S- claimed to be residing at [] a Certificate of No Impediment to Marriage from the Ministry of Justice of Georgia, Public Service Development Agency, dated *after* the Petitioner's marriage in [] 2018 and stating that the Petitioner had not been married and that there was no impediment to him marrying; a Crowning Certificate from the Patriarchate of Georgia indicating that the Petitioner and another individual named S-G- (who gave birth to the Petitioner's two children) had been crowned as "groom" and "bride" at a Monastery in Georgia in [] 2009; photographs of the Petitioner and S-S-; a February 2019 psychological evaluation of the Petitioner; photographs of prescriptions for the Petitioner and gas bills under his name and that of S-S- at [], [], and 2019 statements from the Petitioner's friends and a family member in the United States (G-K-, N-K-, M-U-, I-L-, and G-Z-).

The Director subsequently issued a request for evidence (RFE), advising the Petitioner, in relevant part, that the evidence relating to his VAWA petition did not establish the Petitioner's good faith entry into marriage with his spouse. The Director acknowledged the submission of gas bills and photographs but highlighted that they warranted limited evidentiary value in that there was no evidence to indicate that the bills had been paid from a jointly held account or other joint means, and the photographs did not provide any dates or meaningful insight into the Petitioner's intentions in marrying S-S-. The Director further acknowledged the submission of birth certificates for the Petitioner's children, one of whom was born during the Petitioner's relationship with S-S-, and noted that they listed another individual, S-G-, as their mother and that the record does not otherwise address the dynamic between S-S- and the children during the claimed marriage. The Director last highlighted various inconsistencies and discrepancies in the evidence submitted by the Petitioner, including third party affidavits, regarding the specific address and dynamics of their claimed shared residence as well as the specific date of their marriage.

The Applicant responded to the RFE, but the Director denied the VAWA petition, concluding that that the Petitioner had not overcome the myriad inconsistencies and discrepancies highlighted in the RFE. As relevant to the requirement that the Petitioner have entered into his marriage to S-S- in good faith, the Director acknowledged the Petitioner's submission of an incomplete lease agreement and a shared

¹ We use initials throughout to protect the individuals' privacy.

² A New York state Divorce Judgment contained in the record shows that the Petitioner and S-S- divorced in [] 2021.

³ We withhold the exact address to protect the individuals' privacy.

bank statement but explained that the lease agreement was internally inconsistent with other submitted evidence and that the bank statement documented only one month of purchases from a single credit card. The Director further considered additional third-party affidavits submitted by the Petitioner, but noted that, beyond attesting to their knowledge of the Petitioner's marriage to S-S-, they were vague and did not provide specific details about the couple's courtship, shared experiences, or marital dynamics sufficient to provide insight into the Petitioner's intentions in marrying S-S-.

On appeal, the Petitioner submits a brief and includes previously provided evidence in the form of his 2022 statement, G-K-'s 2022 statement, and his 2022 psychological evaluation, but does not offer any additional evidence. In his brief, he asserts that S-S- engaged in a pattern of coercive control, psychological violence, and economic abuse and was disengaged from their relationship, such that the lack of additional evidence to show he entered into the marriage with S-S- in good faith should not be considered as a factor in denying the VAWA petition. According to the Petitioner, the Director erred by not fully analyzing whether the inconsistencies identified in the denial are of relevance and significance to the Petitioner's overall eligibility.

On appeal, we adopt and affirm the Director's decision, with comments below regarding the Petitioner's assertions on appeal. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

We acknowledge the Petitioner's general claim on appeal that the Director did not fully address the discrepancies in the evidence and explain each discrepancy's relevance to his eligibility for protection under VAWA. However, a review of the record shows that the Director considered the relevant evidence and explained inconsistencies in the record in light of the overall reliability and credibility of the submitted evidence, and as relevant to each eligibility criteria, first in the RFE and then in the denial. *See* section 204(a)(1)(J) of the Act and 8 C.F.R. § 204.2(c)(2)(i) (providing that, 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). Consequently, the Petitioner's general assertion that the inconsistencies and their relevance were not addressed is unsupported by the record. 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 what he claims is "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, and as relevant to the good faith marriage requirement, the Petitioner has not resolved or meaningfully explained the contradictory information in both his own claims in his statements, or in the remaining evidence submitted to support his claims. As discussed by the Director, in his 2019 statement the Petitioner claimed that he married S-S- in 2018, whereas his marriage certificate

shows that they married in [] 2018. The Petitioner also claimed in his 2019 and 2022 statements that he began living with S-S- after their marriage, and that they separated in January 2019 after she had cheated on him on New Year's Eve 2018. These assertions are also presented in the Petitioner's 2022 psychological evaluation, as he recounted them to a different therapist. However, the psychotherapist who prepared the Petitioner's February 2019 evaluation stated that the Petitioner had claimed that he had resided with S-S- for four months *prior* to their marriage, that S-S- cheated on him on Christmas Day of 2018, and that they separated in late December 2018. Consequently, the Petitioner's own contradictory claims about when he began residing with S-S-, when he found her cheating on him, and when they stopped residing together lessen the weight of his own claims and otherwise do not support his claim to have entered into the marital relationship in good faith.

The Petitioner also did not resolve or meaningfully explain the following additional contradictory evidence: (1) in his statements, the Petitioner repeatedly and incorrectly referred to M-U-'s child as her son even though he claimed to have resided with M-U- and her child for most of 2018 and the leasing company records for the [] show that the child was a daughter; (2) the Petitioner claimed that he resided with G-K- and G-K-'s spouse (in addition to S-S- and M-U-) in 2018, but G-K- did not claim to have lived with the Petitioner in his own 2019 statement, only making this claim in his 2022 statement; and (3) the property management company for the [] provided a rider to a lease agreement that was signed only by the Petitioner and M-U- and reflected that the two of them and M-U-'s child were sole residents for the one-year period beginning in March 2018, even though the Petitioner claimed to reside at the apartment with an additional three people. These inconsistencies cast doubt on the Petitioner's claim that he and S-S- resided together and with G-K-, G-K-'s spouse, and M-U- and her child in 2018, and that he entered into and shared a good-faith marital relationship with S-S-.

The Petitioner asserted in response to the Director's RFE that he did not reside with S-S- at the [] and claimed that his VAWA petition preparer was responsible for incorrectly listing it as his shared marital address. However, the Petitioner signed the VAWA petition, attesting that he understood English and that the information on the VAWA petition was correct. The Petitioner's signature "establishes a strong presumption" that he knew and assented to the contents. *See Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). With respect to the gas bills that he initially provided, the Petitioner asserted that the gas company had erroneously issued its billing statements to him and S-S- at the [] however, each gas bill lists the [] as the "location of service" and states that "[a]n electric meter reading device provides [the gas company] with your actual meter reading." Consequently, the gas statements were issued to the Petitioner and S-S- based on actual service to the [] not based on an incorrect mailing address, as he claims. Moreover, the Director highlighted that the gas bills do not indicate that they were in fact paid, or paid from a jointly held account and, accordingly, were not probative evidence of the Petitioner's good faith marriage to, or intentions in marrying, S-S-. The Petitioner has not acknowledged nor submitted any evidence or assertions to refute this conclusion. As a consequence, based on the Petitioner's own contradictory claims and evidence, he has not shown where he actually resided during the period in 2018 that he claimed to share a marital residence with S-S-, whether at the first location he claimed (the [] [] the second location he claimed in response to the NOID (the [] or elsewhere. We cannot therefore conclude based on this evidence that the Petitioner and his spouse shared a marital residence, and that the Petitioner "more likely than not" entered into the marital relationship 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. *Matter of Ho*, 19 I&N Dec. at 591-92. Given the unresolved discrepancies in the evidence, we agree with the Director that the Petitioner's evidence does not support his claim to have married S-S- in good faith while residing with her at any specific location, as he claims.

While we acknowledge the affidavits from the Petitioner and his friends, 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 Applicant submitted do not satisfy the above criteria because they are not only inconsistent with other claims, as discussed above, but they lack details regarding the Petitioner's good-faith entry into marriage with S-S-. G-K- claims that his own wife introduced the Petitioner to S-S-, that they resided together for only a short period of time, and that the Petitioner was happy with S-S-. However, G-K- does not provide details about his and his wife's interactions with the Petitioner and S-S-, particularly during the period he asserted that they resided together, for purposes of establishing the Petitioner's marital intentions toward S-S-. Similarly, in her statements M-U- claims that she is related to the Petitioner and states that he and S-S- resided with her in her apartment. Although she attests that the Petitioner was in love with S-S-, M-U- also asserts that she was only at the apartment once a week and her statements otherwise lack information that would provide insight into the Petitioner's marital relationship. Other affiants, N-K- and I-L-, state that they had known the Petitioner while they all were residing in Georgia, also knew the Petitioner when he was with S-S-, and that they were present at the wedding ceremony; however, they do not offer any specific information about the wedding ceremony or insights into their marital relationship, and additionally contain internal inconsistencies as highlighted by the Director. We note that the record includes wedding-related photographs of the Petitioner and S-S-, including one in the city clerk's office, and another photograph that appears to have been taken on a street in [REDACTED]. Apart from documenting the day of their wedding ceremony, the remaining street photograph does not provide insights into the Petitioner's marital relationship with S-S-.⁴ In view of the unresolved inconsistencies in the record, the limited probative value of the affidavits, and lack of credible corroborating documentation of their marital relationship, the evidence considered individually and in the aggregate remains insufficient to show that the Petitioner "more likely than not" entered into the marriage with S-S- in good faith.

Because the Petitioner has not shown that he is 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).

III. CONCLUSION

⁴ Although their images are truncated in the photographs, the Petitioner and S-S- appear to be wearing the same clothes from their marriage ceremony in the additional photos.

The Petitioner has not met his burden of proof to establish that he entered into marriage with 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.