



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

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

In Re: 32578106

Date: APRIL 23, 2024

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 into marriage with his spouse in good faith, resided with her, and that she subjected him to battery or extreme cruelty. The matter is now before us on appeal pursuant to 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

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner married the U.S. citizen spouse in good faith, is eligible for immigrant classification based on that relationship, resided with the spouse, was subjected to battery or extreme cruelty by the spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii) of the Act.

A petition will not be approved if the petitioner entered into the marriage for the primary purpose of circumventing the immigration laws. 8 C.F.R. § 204.2(c)(1)(ix). A petition will not be denied, however, solely because the petitioner is no longer living with the abuser and the marriage is no longer viable. *Id.* Evidence of good-faith entry into the marriage may include, but is not limited to, joint insurance policies, property leases, income tax forms, bank accounts, and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. *Id.* at § 204.2(c)(2)(vii). Other evidence might include police, medical, or court documents providing information about the relationship, and affidavits of persons with personal knowledge of the relationship. *Id.*

Residence is the place of general abode, which means a person's principal, actual dwelling place in fact, without regard to intent. Section 101(a)(33) of the Act. Evidence of shared residence may include employment records, utility receipts, school records, hospital or medical records, deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency. *Id.* at § 204.2(c)(2)(iii).

Battery or extreme cruelty includes being the victim of any act or threatened act of violence, which results or threatens to result in physical or mental injury. 8 C.F.R. § 204.2(c)(1)(vi). Psychological or sexual abuse shall be considered acts of violence. *Id.* Other abusive action that are part of an overall pattern of violence may also qualify. *Id.* Evidence of battery or extreme cruelty may include reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. *Id.* at § 204.2(c)(2)(iv). Proof of non-qualifying abuse may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred. *Id.*

While we consider any credible evidence relevant to the petition, the determination of what evidence is credible, and the weight given such evidence lies within our sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The record reflects the following procedural history. The Petitioner previously filed a VAWA self-petition in 2013, which was denied in 2014. In 2016, the Petitioner filed a second self-petition, which was denied in 2018. We dismissed the petitioner's subsequent appeal in 2019. This petition, the Petitioner's third, was filed in 2020. The Director determined, in part, that discrepancies between this petition and the Petitioner's prior petitions detracted from the credibility of his statements. In her 14-page decision, the Director thoroughly discussed the relevant evidence and determined it was insufficient to establish the Petitioner's joint residence with his wife, his good-faith entry into their marriage, and that she subjected him to battery or extreme cruelty. We find no errors in the Director's analysis.

On appeal, the Petitioner submits a brief. In support of his claim to have entered his marriage in good faith, the Petitioner summarizes his previous accounts of his relationship with his wife and states he is submitting a supplemental affidavit, a bank account statement, and additional photographs. None of these documents were included with the Petitioner's submission on appeal. The Petitioner also asserts that the Director failed to consider that documentary evidence of a good-faith marriage will often be difficult or impossible to provide due to the abuse and the Petitioner submitted all the evidence he had access to. In addition to assessing the Petitioner's documentation, the Director thoroughly addressed the Petitioner's own statements and those of third parties. We find no error in the Director's assessment of the relevant evidence previously submitted.

On appeal, the Petitioner claims that discrepancies in his statements regarding his residence with his wife are due to "human error and memory lapse." He asserts that in his attached, supplemental affidavit, he provides additional information regarding his shared residence with his wife. However, no supplemental affidavit was included with his appeal.

On appeal, the Petitioner further asserts that his wife subjected him to an overall pattern of violence and abuse by offending, threatening, and humiliating him. He claims seeking mental health care was the only way he recovered from his wife's abuse and states he is submitting evidence of the counseling and therapy he received. However, no such evidence was included with his appeal and the Petitioner does not cite any specific error in the Director's assessment of the relevant evidence previously submitted.

The Petitioner's claims on appeal fail to overcome the Director's denial. The Petitioner has not established that he entered into marriage with his spouse in good faith, resided with her, and that she subjected him to battery or extreme cruelty, as section 204(a)(1)(A)(iii) of the Act requires.

ORDER: The appeal is dismissed.