



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

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

In Re: 22510285

Date: AUG. 30, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child 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). The Director of the Vermont Service Center (the Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), determining that the Petitioner did not establish by clear and convincing evidence that he entered his marriage in good faith and not to circumvent immigration laws. The matter is before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). The Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in removal proceedings, unless the petitioner establishes by clear and convincing evidence that the marriage was entered into in good faith and not solely for immigration purposes. *See* sections 204(g) and 245(e)(3) of the Act, 8 U.S.C. §§ 1154(g) and 1255(e)(3) (outlining the restriction on, and exception to, marriages entered into while in removal proceedings); *see also* 8 C.F.R. § 204.2(c)(1)(iv) (providing that a self-petitioner “is required to comply with the provisions of . . . section 204(g) of the Act”).

Clear and convincing evidence is that which, while not “not necessarily conclusive, . . . will produce in the mind . . . a firm belief or conviction, or . . . that degree of proof which is more than a preponderance but less than beyond a reasonable doubt.” *Matter of Carrubba*, 11 I&N Dec. 914, 917 (BIA 1966). 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 Tanzania, married his U.S. citizen spouse, A-S-, in [redacted] 2011, while the Petitioner was in removal proceedings.¹ The Petitioner filed his VAWA petition in February 2017. The Director denied the petition, concluding the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with A-S- in good faith, as required by section 204(g) since the Petitioner married his spouse while in removal proceedings.

In the Director's decision, she noted that the Petitioner had submitted multiple leases and evidence that appeared to be fraudulent or altered. The Director noted that U.S. Citizenship and Immigration Services (USCIS) contacted the leasing office, specifically of the Petitioner's address on [redacted] Dr, Apt 2008, in [redacted] Texas, where the Petitioner claimed to reside with A-S- from May 2013 until February 2015. The Director noted that the manager of the property informed USCIS that she started working there in 2014, and that neither the Petitioner nor A-S- had resided in Apt 2008; rather, the apartment manager indicated that a different individual had resided there during that time. The apartment manager further stated that the leases did not match the format of the leases that were used by the management company in 2013 and 2014. The Director further noted that some of the utility bills submitted by the Petitioner appeared to be altered as the Petitioner and A-S-'s names were separated by a comma. The Director stated that USCIS served a subpoena upon [redacted] and they responded stating that only the Petitioner's name appeared on the account. The Director noted other utility bills submitted by the Petitioner appeared to have been altered in the same manner.

As included in the Director's decision, the Petitioner was requested to submit original versions of the leases for each of the addresses where he claimed to reside with A-S-, in a request for evidence (RFE), and the Petitioner did not do so; rather, he claimed that he was not in possession of the documents, and was unable to obtain them and urged USCIS to attempt to obtain them on his behalf, but did not provide any evidence of his attempts to do so. The Director analyzed the remaining evidence submitted, and determined that, as certain evidence was determined to be fraudulent or altered, the Petitioner had not established, by clear and convincing evidence, that he married A-S- in good faith.

On appeal, the Petitioner submits a brief and new evidence, including a copy of the sale history of the property on [redacted] Dr in [redacted] Texas, and a letter from the apartment manager, D-F-. In his brief, the Petitioner argues that there was a change of ownership of the apartments at [redacted] Dr, which resulted in a lack of access to his prior leases. The Petitioner states that the letter from D-F- states that she was "only provided the records of the tenants who were currently renting from [redacted] Dr] not those prior to [her] management." The Petitioner states that based on this letter, and copy of the sale history, the Director's determination that the leases were fraudulent is incorrect. However, in review of the record, the statements provided on appeal are not sufficient to overcome the Director's denial of the Petition. While the Petitioner claims that the sale of the property resulted in his inability to obtain his prior lease records, he has not provided documentation from the property management company attesting to the unavailability of his prior lease records. In response to the Director's RFE, the Petitioner stated that he personally visited the prior property management company and "their representatives explained to [him] that they do not keep any lease records from previous tenants" but only provided his own statement, and no corroborating statement from the

¹ We use initials to protect the identity of individuals.

property management company. Further, in assessing the statements provided by D-F, both on appeal and to USCIS officials previously, her accounts are inconsistent.

The substance of D-F-'s letter states, "[she] became manager . . . in February 2014. [She] was contacted about [the Petitioner]. [She] informed them that [the Petitioner and A-S-] were not tenants at [redacted] Dr] when [she] became manager. If they were here prior to February 2014, [redacted] Management would have to be contacted to verify. [She] did not possess any records regarding his tenancy. [redacted] Management only provided the records of the tenants who were currently renting from [redacted] not those prior to [her] management." As noted in the Director's decision, the Petitioner claimed that he and A-S- resided on [redacted] Dr, in Apt 2008, from May 2013 through February 2015.² The apartment manager stated that she began working at the property in February 2014 and had never interacted with the Petitioner or A-S-, which was during the time they were allegedly residing at the property. The Petitioner does not provide an explanation as to why, if he was residing at that apartment until February 2015, a full year after D-F- began her position as apartment manager, the management company would not have records of his tenancy, which, as stated by D-F- in her letter, included "the records of tenants who were currently renting" at the time. Further, the property sale records indicate that the property transferred in ownership in February 2015, which was also during the time when the Petitioner's lease was still in effect.

The statements from the Petitioner and D-F- are granted limited weight due to these unresolved inconsistencies. The Petitioner submitted a copy of a lease, which indicated it was executed in April 2014, which is after D-F- claimed the transfer of management had taken place, and after she had started her position as apartment manager. Further, the statement submitted by D-F-, which the Petitioner views as resolving the Director's concerns, does not address why she previously told USCIS officials that a different individual was listed in her records as residing in Apt 2008 at the time the Petitioner claimed to reside there with A-S-. As a result, we determine that the Petitioner has not overcome the Director's finding that he has not established, by clear and convincing evidence, that he married A-S- in good faith.³ Accordingly, approval of his VAWA petition is barred by Section 204(g) of the Act.

ORDER: The appeal is dismissed.

² The Petitioner claimed in previous statements that he and A-S- were provided a "notice to vacate" and moved out of [redacted] Dr, Apt 2008, in February 2015. This event would have occurred a year after D-F- had been in her position as apartment manager, and her statements do not address this claim.

³ The Director further denied the Petitioner on the additional ground of not establishing that he was person of good moral character, as required by section 204(a)(1)(A)(iv) of the Act. As the Petitioner did not submit arguments to the contrary, we do not address it here.