



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

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

In Re: 21383432

Date: JULY 19, 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 denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), and the matter is before us on appeal. We review the questions in this matter *de novo*. See *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

Petitioners who are spouses or former spouses of a U.S. citizen may self-petition for immigrant classification under VAWA if they demonstrate, among other requirements, that they entered into the marriage with the U.S. citizen spouse in good faith. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(H). In addition, the petitioner must show that they are eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act as the spouse of a U.S. citizen. Section 204(a)(1)(A)(iii)(II)(cc) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(B).

A VAWA petition cannot be approved if the petitioner entered into the marriage for the primary purpose of circumventing immigration laws. 8 C.F.R. § 204.2(c)(1)(ix). Evidence that the marriage was entered into in good faith may include, but is not limited to: shared insurance policies, property leases, income tax forms, or bank accounts; testimony or other evidence regarding courtship, wedding ceremony, shared residence, and experiences together; birth certificates of children born to the relationship; police, medical, or court documents providing information about the relationship; or affidavits of persons with personal knowledge of the relationship. 8 C.F.R. § 204.2(c)(2)(vii).

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 has resided outside the United States for a period of two years after the date of marriage or establishes by clear and convincing evidence that the marriage was entered into in good faith. 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).

It is the petitioner’s burden to establish eligibility for the immigration benefit sought by a preponderance of the evidence. Section 291 of the Act; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 805-6 (AAO 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). However, in cases where section 204(g) of the Act applies, petitioners must establish their good-faith marriage to a U.S. citizen under the higher “clear and convincing evidence” standard required under section 245(e)(3) of the Act. To satisfy their burden, the petitioner may submit any credible evidence for us to consider in our review. 8 C.F.R. § 204.2(c)(2)(i). However, although we must consider any credible evidence relevant to a VAWA petition, we determine, in our sole discretion, 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

### A. Background and Procedural History

The Petitioner is a native and citizen of Costa Rica who last entered the United States as a temporary agricultural worker in April 2006. In [REDACTED] 2017, the Department of Homeland Security (DHS) initiated removal proceedings against the Petitioner, serving him with a notice to appear. A marriage certificate in the record shows that in [REDACTED] 2018, the Petitioner married his U.S. citizen spouse in New Jersey while he was still in removal proceedings. In [REDACTED] 2020, the immigration court ordered the Petitioner removed, a matter that is on appeal before the Board of Immigration Appeals.

In July 2018, the Petitioner’s spouse, C-S-,<sup>1</sup> filed a Form I-130, Petition for Alien Relative, on his behalf, and the Petitioner simultaneously filed a corresponding Form I-485, Application to Register Permanent Residence or Adjust Status. Both benefit requests were denied in July 2019, based on the Petitioner’s withdrawal request. The Petitioner filed his VAWA petition in August 2019 based on his marriage to C-S-. The Director denied the VAWA petition, concluding that the Petitioner had not shown that he had entered into the marriage with his U.S. citizen spouse in good faith by a preponderance of the evidence. The Director also concluded that section 204(g) of the Act barred approval of the petition because the Petitioner married C-S- while in removal proceedings and did not reside outside the United States for the requisite two-year period after the marriage. The Director further determined that because the Petitioner did not establish his good-faith marital intentions by a preponderance of the evidence, he necessarily did not meet the higher evidentiary burden to demonstrate by clear and convincing evidence that he entered into the marriage in good faith as required for the *bona fide* marriage exemption to the statutory bar at section 204(g). Lastly, the Director further determined that the Petitioner did not establish eligibility for immigrant classification under section 201(b)(2)(A)(i) of the Act.

On appeal, the Petitioner does not contest that he married C-S- while he was in removal proceedings or that section 204(g) of the Act therefore applies in his case. Instead, the Petitioner claims to have

---

<sup>1</sup> Initials are used to protect the identities of the individuals.

submitted sufficient credible evidence to demonstrate that he entered into a qualifying relationship with C-S- in good faith, noting that he submitted multiple affidavits. He states that he believes the Director did not give “credible weight” to the evidence submitted, which he maintains clearly established his good-faith marriage for purposes of the *bona fide* marriage exemption to the section 204(g) bar. He claims that the short and abusive nature of his relationship with C-S- hindered his ability to secure additional evidence. He now includes additional evidence in the form of a new personal statement and a January 2022 notice addressed to C-S-, advising that a judgement of debt had been filed against her by the State of New Jersey. Based on our *de novo* review, the Petitioner has not established he entered into marriage with his U.S. citizen spouse in good faith.

#### B. The Petitioner Has Not Established Good-Faith Entry into Marriage

The record below and on appeal does not overcome the Director’s conclusion that the Petitioner did not demonstrate that he entered into marriage with C-S- in good faith.

In his personal statements below, the Petitioner claimed that he met C-S- in June 2017 when she came to the auto shop in which he was working to have her car oil changed. The Petitioner stated that they struck up a conversation, exchanged phone numbers, and immediately started texting and speaking on the phone. The Petitioner asserted that he and C-S- went on their first date approximately two weeks later. According to the Petitioner, he proposed to her at his home in [redacted] New Jersey in December 2017, and they moved in together at a residence in [redacted] New Jersey two weeks later and married in [redacted] 2018. The Petitioner initially stated that C-S- had never worked from the day he met her but that he wanted to support and take care of her.

In his initial statement, the Petitioner further claimed that his wife was very caring and loving for the first couple of months of their marriage, that she cooked and took care of him, and that they had conversations about traveling to meet his family Costa Rica and possibly having a family of their own, even though he believed that she was too old to have more children. However, the Petitioner asserted that C-S- started to change around the time of her birthday in [redacted] 2018, and began to act very differently and strange after he was unable to leave work to attend her party. The remainder of the Petitioner’s statement discussed his discovery of C-S-’s criminal history and long-term drug addiction, and how her drug use contributed to her abusive treatment of him, including the fact that their landlord forced them to move in October 2018 because of C-S-’s disruptive behavior while the Petitioner was at work. The Petitioner claimed that he finally left C-S- and moved out of their second apartment in the end of June 2019. In response to a request for additional evidence (RFE), the Petitioner provided a supplemental statement in which he again claimed that he loved C-S- and tried to support her through her drug addiction. He added that he had supported her interest in starting a family even though he believed that she was too old to have more children.

The Petitioner also submitted statements from four friends who generally declared that the Petitioner loved C-S-, but primarily described being aware of or witnessing incidents where C-S- demonstrated a controlling nature towards the Petitioner or was abusive to him. The Petitioner’s supplemental evidence included lease agreements for the two apartments that he claimed to have shared with C-S-, first in [redacted] New Jersey, and then in [redacted] New Jersey. He also provided bank statements and telephone and electric bills that had been issued either to him or to C-S- separately at the addresses he claimed they had shared. The Petitioner included a letter from his former landlord, who explained

that the Petitioner and C-S- had been his tenants and initially were fine, but that C-S- began to entertain strangers while the Petitioner was at work, the neighbors complained, and eventually the Petitioner moved out. Finally, he included a 2018 joint federal income tax return listing him and C-S- at the address of the apartment in [redacted] New Jersey. The 2018 tax return was supported by an Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement, showing that the Petitioner's wages were the sole source of their declared income on the 2018 joint tax return. The Petitioner also submitted a psychological evaluation from a counselor, who primarily recounted the Petitioner's descriptions of the abuse to which C-S- subjected him and diagnosed the Petitioner with post-traumatic stress disorder.

On appeal, the Petitioner includes a new personal statement in which he adds that he decided to marry C-S- because he loved her, and that he did not tell her that he was in removal proceedings because he did not want her to worry about his status or let that get in the way of their relationship. He adds that he had been in serious relationships with three other women prior to C-S- but had never experienced the love and commitment he felt with C-S-. His statement also references some of the couple's activities and a trip they took while dating, and briefly describes his proposal. He provides some general details about how they celebrated their wedding day, stating that he and C-S- dined with friends and family at a [redacted] in [redacted] New Jersey. Although the Petitioner asserts that he and C-S- took a lot of pictures on the day they married, he contends that they never printed the pictures and C-S- has refused to provide the Petitioner with a copy of pictures from their wedding.

A review of the entire record shows that the Petitioner has not overcome the grounds for denial in the Director's decision, and that the Director properly addressed the evidence below. Although the Petitioner's personal statements before the Director provided some details of his relationship with C-S-, they largely focused on the abuse he suffered and lack sufficient, probative details about their courtship, their wedding ceremony, their personal routines after marriage, and their shared marital experiences to reflect his good-faith intent in marrying C-S-. As noted by the Director, the Petitioner's friends and former colleagues likewise provided general statements regarding the Petitioner and C-S- that did not provide insight into his relationship with her. Instead, his friends discussed interactions during which C-S- appeared to be abusive or controlling of the Petitioner. For example, a colleague named M-D- stated that the Petitioner loved C-S- and wanted to start a family with her without providing additional discussion of the Petitioner's marital intentions, and the remainder of his statement focused on the abuse to which C-S- subjected the Petitioner.

Moreover, the Petitioner's claims regarding his shared life with C-S- are contradicted by other evidence in his record. For example, in response to the questions at Part 10 of the VAWA petition asking him to provide the last address at which he had resided with C-S- and to specify the dates, the Petitioner claimed that he and C-S- shared a residence in [redacted] New Jersey from December 2017 to June 2019. However, in his second statement, he claimed that they moved to a second residence in [redacted] New Jersey in 2018, and provided a lease agreement showing that they had agreed to rent the apartment in [redacted] beginning in November 2018, in addition to various bills issued to the Petitioner or to C-S- at this second address. Consequently, the Petitioner's own assertions and evidence are internally inconsistent as to when and where he and C-S- allegedly shared a life together after their wedding ceremony.

As noted by the Director, the supporting evidence in the record below, including the bank statements and the telephone and electric bills, were addressed either to him or to C-S- rather than to both of them

at a single address and therefore do not reflect that they shared expenses and a domestic life at the same address. We acknowledge that with respect to the bank statements, the Petitioner claimed that he had been unable to open a joint bank account with C-S- due to her poor credit history, but it remains that the bills and bank statements were issued to each person separately, do not evidence that the couple's expenses and savings were shared, and do not provide insight into the couple's relationship. Similarly, the initial photographs depict the Petitioner and C-S- together but are not dated or labeled and do not otherwise provide context for or insight into things the couple did together, their shared experiences, events they attended together, or moments that were special to them. Although both the Petitioner and C-S- are listed on the 2018 federal income tax return, the record does not show that this document was actually filed with the IRS, and as discussed later, is inconsistent with other evidence in the record. With respect to the Petitioner's psychological evaluation, the counselor primarily recounts the Petitioner's discussion of C-S-'s abuse, but does not contain information regarding their relationship and shared life that reflects the Petitioner's good-faith marital intentions. Consequently, these documents are not sufficient to establish Petitioner's good-faith entry into marriage, particularly in the absence of probative testimony from him.

Finally, while we acknowledge the Petitioner's statement on appeal and the new document showing judgement of debt against his wife, the documents do not add meaningful information with respect to his courtship, wedding ceremony, shared experiences, or marital routines, and they do not explain or resolve the referenced inconsistencies in the record. Rather, the documents raise additional discrepancies with respect to the Petitioner's claim to have entered into the marriage in good faith. For example, the Petition initially claimed that C-S- had not worked since the day he met her in June 2017. However, on appeal, he claimed that C-S- lost her job as a taxi dispatcher in February 2019, and from that point he was wholly responsible for their rent and expenses until he moved out in June 2019. Moreover, if C-S- had worked as a taxi dispatcher during their marriage until 2019 as the Petitioner now claims, then her 2018 income should have been included on the couple's 2018 tax return. However, only the Petitioner's 2018 income is reported on the tax return. These inconsistencies in the Petitioner's statements and evidence regarding her spouse's employment history during their relationship further undermine his good-faith marriage claim.

We acknowledge the Petitioner's assertion on appeal that the Director failed to take into consideration how the short and abusive nature of his relationship with C-S- hindered the Petitioner's ability to secure additional evidence relating to his marriage. However, it remains that the Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. at 375. In this case, the record lacks sufficient probative testimony and evidence from the Petitioner of his good faith marital intentions. In addition, the documentary evidence provided raises unresolved inconsistencies that undermine his claim of good-faith marriage. Viewed as a whole, the Petitioner has not shown, by a preponderance of the evidence, that he entered into the marriage with his U.S. citizen spouse in good faith.

### C. Section 204(g) of the Act and Eligibility for Immigrant Classification

Because the Petitioner married C-S- while he was in removal proceedings and he did not remain outside of the United States for two years after their marriage, section 204(g) of the Act bars approval of his VAWA petition unless he satisfies the *bona fide* marriage exemption under section 245(e)(3) of the Act by demonstrating that his marriage was entered into in good faith by clear and convincing

evidence.<sup>2</sup> While identical or similar evidence may be submitted to establish a good-faith marriage pursuant to section 204(a)(1)(A)(iii)(I)(aa) of the Act and the *bona fide* marriage exemption at section 245(e)(3) of the Act, the latter provision imposes a heightened burden of proof. *Matter of Arthur*, 20 I&N Dec. 475, 478 (BIA 1992); *see also Pritchett v. INS*, 993 P.2d 80, 85 (5th Cir. 1993) (acknowledging "clear and convincing evidence" as an "exacting standard").

As we have already concluded, the Petitioner has not established his good-faith entry into his marriage to C-S- by a preponderance of the evidence under section 204(a)(1)(A)(iii)(I)(aa) of the Act. He therefore has not demonstrated his good-faith marriage under the heightened standard of proof required for the *bona fide* marriage exemption at section 245(e)(3) of the Act. Section 204(g) of the Act consequently bars approval of this VAWA petition. 8 C.F.R. § 204.2(c)(1)(iv).

### III. CONCLUSION

On appeal, the Petitioner has not established by a preponderance of the evidence that he entered into marriage with C-S- in good faith. He therefore necessarily has not satisfied the higher burden of demonstrating his good-faith marital intentions by clear and convincing evidence to establish eligibility for the *bona fide* marriage exemption at section 245(e)(3) of the Act. Approval of the Petitioner's VAWA petition is therefore also barred under section 204(g) of the Act because his marriage to his U.S. citizen spouse occurred while in immigration proceedings. Accordingly, the Petitioner is not eligible for VAWA immigrant classification under section 204(a)(1)(A)(iii) of the Act.

**ORDER:** The appeal is dismissed.

---

<sup>2</sup> The Petitioner does not assert, and the record does not show, that his removal proceedings have been terminated or that he is otherwise exempt from the restriction at section 204(g) of the Act because he resided outside the United States for a period of two years after his marriage to C-S-. *See* sections 204(g) and 245(e)(3) of the Act (prohibiting approval of a VAWA petition where the petitioner's marriage to the U.S. citizen spouse underlying the petition occurred while the petitioner was in removal proceedings, *until* the petitioner has resided outside the United States for a two-year period after the marriage).