



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

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

In Re: 17004727

Date: JUL. 20, 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 in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center initially approved the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition) but subsequently revoked approval, upon notice. On appeal, the Petitioner submits a brief and an updated personal affidavit. 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; C.F.R. § 204.2(c)(1)(ix). However, U.S. Citizenship and Immigration Services (USCIS) will not approve a visa petition if the petitioner previously was accorded, or sought to be accorded, immediate relative status as the spouse of a U.S. citizen by attempting, conspiring, or entering into a marriage for the purpose of evading the immigration laws. Section 204(c) of the Act, 8 U.S.C. § 1154(c). For the fraudulent marriage prohibition to apply, the record must contain “substantial and probative” evidence of such an attempt or conspiracy, regardless of whether the alien received a benefit. 8 C.F.R. § 204.2(a)(1)(ii).

USCIS may, at any time, revoke approval of a VAWA petition for “good and sufficient cause.” Section 205 of the Act, 8 U.S.C. § 1155; 8 C.F.R. § 205.2(a). The regulations provide for both automatic revocation and revocation upon notice to the petitioner “when the necessity for the revocation comes to the attention” of the Director. 8 C.F.R. §§ 205.1, 205.2.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). While 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). 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).

## II. ANALYSIS

The Director determined that substantial and probative evidence in the record demonstrated that the Petitioner entered into a prior marriage for the purpose of evading immigration laws, approval of Form I-360 was prohibited under INA 204(c), and there was good and sufficient cause to revoke the prior approval. On appeal, the Petitioner argues, through counsel, that the Director's decision did not properly assess his case according to the standards articulated by the Board of Immigration Appeals in *Matter of P. Singh*, 27 I&N Dec. 598 (BIA 2019), and erred by discrediting his testimony while crediting the testimony his ex-spouse.

### A. Facts and Procedural History

The Petitioner is a native and citizen of India who entered the United States without inspection in 1993. He asserted that he married a U.S. citizen, S-G-,<sup>1</sup> in [ ] 2001, and the record includes a Form I-130, Petition for Alien Relative, filed by S-G- on the Petitioner's behalf in April 2001.<sup>2</sup> The Petitioner submitted a divorce judgment indicating that the couple divorced in [ ] 2002. In [ ] 2002, the Petitioner married a U.S. citizen, H-K-, and in June 2010, he filed a VAWA petition based on this marriage, which the Director approved in April 2011. In September 2018, the Director issued a notice of intent to revoke (NOIR) the VAWA approval, citing to new evidence that indicated section 204(c) of the Act applied to the Petitioner and prohibited approval of his VAWA petition. After the Petitioner responded to the NOIR, the Director revoked approval of the VAWA petition in October 2019. We summarily dismissed the Petitioner's appeal of the decision as untimely. The Petitioner later filed a complaint in the United States District Court for the Eastern District of New York to challenge the revocation, and USCIS moved to reopen proceedings, after which the Director issued a second decision revoking approval of the VAWA petition in December 2020.

#### 1. The Director's NOIR

In the NOIR, the Director notified the Petitioner that during an interview with USCIS officers in 2017, S-G- provided a sworn statement that she had never met the Petitioner, entered into marriage with him, or filed a petition on his behalf, but she admitted to being approached to participate in a fraudulent marriage with another person around that same time of 2001, and that she had provided her birth certificate and social security card because she needed the money that she was paid. The Director noted that records indicated the same documents were used to file five petitions based on simultaneous marriages. The Director further indicated that S-G- stated that she only married one time to a Black person for somewhere in Africa and that they never divorced, and that when shown the Form I-130 filed on the Petitioner's behalf S-G- stated the signature was not hers.

The Petitioner responded to the NOIR with a personal declaration, affidavits of support from two relatives, and copies of his marriage license, marriage certificate, and judgment of divorce. The Petitioner asserted that he and S-G- were both present at the wedding ceremony and when they applied

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<sup>1</sup> We use initials to protect individual identities.

<sup>2</sup> The Form I-130 and the Petitioner's corresponding Form I-485, Application to Adjust Status, were denied in 2005 when the couple failed to appear at a scheduled USCIS interview on those applications.

for a marriage license the day before. He contended that they married for love and that he thought they were compatible, but he found out they were not, she left him after a short time, and he filed for divorce. The Petitioner explained that he destroyed photos because he did not think they were needed after his VAWA petition was approved, maintained that they had no insurance policies or property together, and stated that because it was a short relationship years ago there are few people with whom he is now in contact who knew him then.

## 2. The Director's Decisions

In the October 2019 decision the Director revoked approval of the VAWA petition finding that the record revealed substantial and probative evidence that the Petitioner entered marriage with S-G- for the sole purpose of evading immigration law. The Director recounted S-G-'s testimony as provided to USCIS officers and noted that a review of her signature on the Form I-130 submitted on the Petitioner's behalf did not appear to match examples taken during the interview. The Director acknowledged the Petitioner's claim that he and S-G- were both present when obtaining a marriage license and at the wedding ceremony; his assertion that he entered the marriage in good faith, married for love, and the marriage was brief due to cultural differences; and the explanation that he destroyed photos long ago and that the couple never obtained insurance, owned property, or maintained a bank account. The Director concluded, however, that the Petitioner did not provide details of meeting S-G-, their dating history, or decision to marry; that his assertions without supporting documentation were insufficient to demonstrate a *bona fide* marriage; that his statements contradicted those of S-G-; and that affidavits from his relatives were vague without sufficient detail.

In the 2020 decision, the Director explained that upon reopening proceedings USCIS considered the Petitioner's assertion that the revocation did not employ the substantial and probative evidence standard of proof outlined by the Board of Immigration Appeals in *Matter of P. Singh, supra*.<sup>3</sup> The Director reiterated that an administrative investigation revealed multiple Form I-130 petitions were submitted using identity documents belonging to S-G-, and that she gave a sworn statement admitting to providing the documents for a fraudulent marriage to another individual, but attesting that she never met, married, or petitioned for the Petitioner. The Director noted that examples of her signature taken during the interview with USCIS officers did not match those on documents in the Petitioner's file.

The Director acknowledged the Petitioner's claims that he and S-G- were both present to obtain the marriage license and at the wedding ceremony but found that the marriage certificate did not demonstrate the Petitioner entered the marriage intending to establish a life together. The Director found that the marriage license and certificate were inconsistent with S-G-'s testimony, which the Director noted was credited because it was consistent with investigative records. Although acknowledging the Petitioner's explanation that he destroyed photographs and the couple never obtained financial documents, the Director concluded that the Petitioner did not provide probative details of their relationship and that his justification for the lack of supporting documentation was afforded little weight given the testimony of S-G- and inconsistencies in the record. The Director noted, for example, that the Petitioner claimed he and S-G- began residing together in February 2001, prior to their [ ] 2001 marriage, but the marriage license provided a different address for S-G-. The Director referred to a 2010 psychosocial interview in which the Petitioner reported meeting H-K-

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<sup>3</sup> *Matter of P. Singh*, 27 I&N Dec. 598 (BIA 2019)

in March 2001, soon becoming romantically involved, and found it cast doubt on his claim that he married S-G- in [ ] 2001 to establish life with her. The Director further noted that evidence showed the Petitioner and H-K- had a religious wedding ceremony on [ ] 2002, but the record showed his marriage to S-G- was not terminated until [ ] 2002. The Director surmised that the overlapping timing of the Petitioner's marriage to S-G- and the beginning of his relationship with H-K- diminished the credibility of his claim that he married S-G- with the intention of establishing a life together.

## B. Assertions by the Petitioner

On appeal, the Petitioner argues that neither the 2019 nor 2020 revocation decision employed the standard of review for assessing marriage fraud as determined by the Board of Immigration Appeals in *Matter of P. Singh* and that both decisions violated Second Circuit case law.<sup>4</sup> He contends that the 2020 decision introduced new bases for revoking the Form 1-360 approval without providing him opportunity to respond. The Petitioner also asserts that the Director erred by discrediting his testimony while crediting that of his ex-spouse and did not prove by substantial and probative evidence that he married S-G- with fraudulent intent.

The Petitioner asserts that none of the information in the initial revocation finding came from his file, and, citing *Matter of Tawfik*, 20 I&N Dec. 166 (BIA 1990), asserts that a determination under section 204(c) of the Act requires information come from an individual's file. He contends that although the Director determined S-G- was involved in fraud from 2000 to 2001, the decision did not state whether he was identified as one of the five men for whom she petitioned and whether he was involved in the fraud.

The Petitioner asserts that the Director did not explain how S-G-'s testimony, which he contends is contradicted by evidence, was credited over his, which he argues is supported by evidence. The Petitioner maintains that S-G-'s testimony that she never met him is incredible as documents showed they were at the same place at the same time. He maintains that, as presented by the Director, S-G- is not reliable as she could not remember her husband's name and where he was from or other details. The Petitioner further contends that the Director's decision did not indicate whether S-G- recognized any signatures as hers or whether the signatures referenced by the Director were on documents from his case.

The Petitioner goes on to contend that the second revocation focused on new facts - an address on the marriage certificate, a psychosocial report, and a religious ceremony - without issuing a NOIR allowing him to respond. Regarding addresses on the marriage certificate, the Petitioner contends that there is no requirement to live together for a marriage to be *bona fide*. He disputes the Director accepting a psychosocial report over his own recollections and contests the Director finding the religious ceremony as evidence that his first marriage was not in good faith.

The Petitioner argues that the only question in adjudicating a Form I-130 is assessing whether the parties married with the primary intention to obtain an immigration benefit and the only point of time

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<sup>4</sup> The Petitioner cites *Huang v. Gonzalez*, 453 F.3d 142 (2d Cir. 2006), a decision involving an asylum application. The court determined substantial evidence did not support an immigration judge's adverse credibility finding and the judge's bias toward the alien required remand for reconsideration and reassignment.

that legally matters is at the exchange of vows. He maintains that the Director did not provide any evidence of their primary intent in 2001.

In his affidavit submitted on appeal, the Petitioner maintains that he and S-G- moved in together in February 2001, prior to their marriage, but she did not change her legal address until afterward. The Petitioner claims that he fell in love with S-G-, but after their marriage she started going out with friends until late at night, which made him uncomfortable. He states that the couple decided to part rather than stay in an unhealthy relationship, so he filed for divorce shortly after they separated and considered the marriage effectively over. The Petitioner contends that, while the divorce was pending, he met H-K- in September 2001, became engaged in March 2002, and had a small religious ceremony on [redacted] 2002, but they planned a civil ceremony after his divorce was final. The Petitioner states that he does not know why the psychosocial report states that he met H-K- in March 2001 rather than September 2001.

### C. Section 204(c) of the Act and the Petitioner's Marriage to S-G-

Where the record contains evidence that a petitioner previously engaged in a fraudulent marriage and USCIS has notified the petitioner of the derogatory evidence of such fraud, the petitioner bears the burden to rebut the USCIS finding of fraud and establish that the prior marriage was not entered into for the purpose of evading immigration laws. *See Matter of P. Singh, supra (citing Zemeka v. Holder, 989 F. Supp. 2d 122, 130 (D.D.C. 2013))*. If USCIS denies the petition under section 204(c) of the Act based on marriage fraud, the record must contain substantial and probative evidence of such fraud. *Id.* The central question in determining whether a petitioner's previous marriage was fraudulent is whether the parties to that marriage "intended to establish a life together at the time they were married." *Id.* at 601; *Matter of Laureano, 19 I&N Dec. 1, 2-3 (BIA 1983)*.

The record reflects that the Director correctly recognized evidence of marriage fraud regarding the Petitioner's relationship with S-G-, provided him with notice of a marriage fraud investigation and the derogatory evidence in the record, allowed him the opportunity to respond, and determined that the response was insufficient to demonstrate that he did not enter into his prior marriage for the purpose of evading immigration laws. After review of evidence in the record, we agree with Director's revocation of the Petitioner's VAWA petition as it was based on good and sufficient cause.

The record indicates S-G- stated to USCIS officers that she never met or married the Petitioner, while the Petitioner argues that evidence in the record, including the marriage license, marriage certificate, and judgment of divorce, suggest her presence at those events. We also acknowledge the Petitioner's contention that S-G- is unreliable as she appears unable to recall certain detail. The record still reflects, however, that a USCIS investigation revealed multiple Form I-130 petitions were filed with S-G- identified as the petitioning spouse, and the Petitioner's file contains a copy of a birth certificate and social security card, submitted with the Form I-130 filed on the Petitioner's behalf, which S-G- testified she provided for another fraudulent petition. The Petitioner contends that although the Director determined S-G- was involved in fraud, the decision did not state whether he was identified as one of the five men for which she petitioned. However, the NOIR and the Director's 2020 decision clarified that S-G- was shown a Form I-130 bearing her name and filed on the Petitioner's behalf and she claimed it was not signed or submitted by her. The Petitioner further asserts that the Director did not explain how S-G-'s testimony was credited over his, but in the 2020 decision the Director explained that S-G-'s

testimony was credited because it was consistent with USCIS investigative records regarding the use of her identity documents in other Form I-130 petitions.

As the Director noted, the Form I-130 submitted on the Petitioner's behalf did not contain supporting evidence of the relationship beyond the marriage certificate. In the Petitioner's affidavit in response to the Director's NOIR, he offers only that they were both at the wedding ceremony, that he married S-G- for love, and that he thought they were compatible. In his affidavit submitted on appeal the Petitioner maintains that he met and fell in love with S-G- before marrying her, but despite the NOIR and subsequent revocation of his VAWA approval that described the reasons for revocation, the Petitioner has not offered any detail of meeting S-G- and the development of their relationship, described any mutual interests or how he thought they were compatible, or recalled any daily routines other than S-G- going out late. Although the relationship occurred two decades ago, it is reasonable to expect the Petitioner to be able to provide some level of detail and insight regarding his intent at the time of marriage given that he contends he fell in love with S-G- and he married her to establish a life with her rather than to obtain an immigration benefit. Even if it were determined that S-G- was present with the Petitioner to obtain a marriage license and at a wedding ceremony as he claims, the Petitioner has not established that the marriage was to establish a life together and not for the sole purpose of obtaining an immigration benefit. The limited documentary evidence offers minimal insight into the Petitioner's relationship with S-G- at the time of marriage to establish his intent. Statements from the Petitioner's relatives, submitted with his response to the NOIR, indicated knowledge of his relationship with S-G- but lacked sufficient probative information demonstrating that he and S-G- intended to establish a life together when they married.

The Director noted that the Petitioner claimed that he and S-G- began residing together in February 2001, [redacted] prior to their [redacted] 2001 marriage, but the marriage license provided a separate address for S-G-. The Petitioner's contention that S-G- simply did not change her address until later is insufficient to overcome the discrepancy. The Director referred to a 2010 psychosocial interview in which the Petitioner reported meeting H-K- in March 2001 and soon becoming romantically involved, and found it cast doubt on his claim that he married S-G- in [redacted] 2001 to establish life with her. The Petitioner contends that he does not know why the evaluation indicates he met H-K- in [redacted] rather than September, but the evaluation indicates that information was provided during an interview with the Petitioner, and the Petitioner submitted it in support of his petition. The Petitioner asserts that he met and fell in love with S-G- with the intention to establish a life with her. However, the timing of his relationship with H-K- undermines his claims concerning his intent at the time he married S-G-.

In light of the above, the record reflects that the Petitioner entered into his first marriage in order to evade immigration laws, section 204(c) of the Act applies to the Petitioner and prohibits approval of this VAWA petition based on his subsequent marriage. The Petitioner has provided insufficient probative evidence to overcome S-G-'s sworn statement to USCIS officers and related information concerning the use of her identity documents to file fraudulent Form I-130 petitions. The record, in its totality, contains substantial and probative evidence of marriage fraud, and as such, the Petitioner is subject to section 204(c) of the Act and ineligible for immigrant classification pursuant to VAWA.

The Director, through a NOIR, informed the Petitioner of the marriage fraud investigation and the derogatory evidence in the record. Upon full review of the record, we find that the Director's

revocation of approval of the Petitioner's VAWA petition was for good and sufficient cause. The Petitioner has not overcome the Director's ground for revocation on appeal. Accordingly, the appeal will be dismissed and approval of the VAWA petition will remain revoked.

**ORDER:** The appeal is dismissed.