



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **APR 01 2015** Office: VERMONT SERVICE CENTER File:

IN RE: Petitioner:

PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

f Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), revoked approval of the immigrant visa petition after properly notifying the petitioner. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be granted. The previous decision will be affirmed. Approval of the petition will remain revoked.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as an alien battered or subjected to extreme cruelty by a United States citizen.

Section 205 of the Act, 8 U.S.C. § 1155, permits U.S. Citizenship and Immigration Services (USCIS) to, at any time, revoke the approval of a petition approved under section 204 of the Act for good and sufficient cause.

The director revoked the approval of the instant Form I-360 petition on January 4, 2013, finding the petitioner submitted a forged lease agreement for [REDACTED] in [REDACTED] Illinois, and misrepresented a death certificate as belonging to another individual. The director further determined that the petitioner failed to establish that she resided with her former husband during their marriage and entered into the marriage with him in good faith. In our September 8, 2014, decision on appeal, we concurred with the director's determination. Our previous decision is incorporated here by reference.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

In support of the motion to reopen and reconsider, the petitioner submits a brief and additional evidence. This submission is sufficient to meet the requirements of a motion to reopen and reconsider.

### *Joint Residence*

In our September 8, 2014, decision, we determined that the petitioner failed to establish that she resided with E-P-<sup>1</sup> during their marriage. On motion, the petitioner submits a copy of her previously submitted Form G-325, Biographic Information, dated July 7, 2010, an additional letter from herself, another letter from her friend, [REDACTED] and a letter from her former neighbor, [REDACTED]. The Form G-325 reflects that the petitioner indicated that her dates of residences at [REDACTED] were from March 2004 to March 2006, and at [REDACTED] from March 2006 to September 2009. In her letter, the petitioner generally describes the two residences she claims to have shared with E-P-, a few residential routines with E-P-, and one social gathering at their [REDACTED] residence. Ms. [REDACTED] briefly describes having a dinner at the couple's [REDACTED] home. Mr. [REDACTED] states that he had an apartment at the same [REDACTED] apartment building as the petitioner and E-P- and

<sup>1</sup> Name withheld to protect the individual's identity.

visited the couple, but describes neither his visits nor his interactions with the petitioner and E-P- at their marital residence. Mr. [REDACTED] further states that he never personally met their prior apartment manager and that the tenants did not have direct contact with her because she was not at the apartment building. Despite Mr. [REDACTED] claims, the record shows that Ms. [REDACTED] the onsite property manager at the [REDACTED] apartment building at the time the petitioner was a resident, was able to positively identify the petitioner as one of her tenants when shown photographs of the petitioner and E-P-. Ms. [REDACTED] however, indicated that she had never seen E-P- at the apartment building.

The petitioner claims that she submitted “ample evidence” to prove she lived with E-P- and that Ms. [REDACTED]’s “completely unsubstantiated” statements are being used to “discredit” all of her evidence. Under the preponderance of the evidence standard, the petitioner must prove by a preponderance of the evidence that he or she is eligible for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369, 375. (AAO 2010). The truth is to be determined not by the quantity of evidence alone but by its quality. *Id.* at 376. In this case, the petitioner has not demonstrated by a preponderance of the evidence that she shared a marital residence with E-P-. The petitioner indicated that she did not provide specifics of her joint residence with her husband because she felt to have done so would have been “redundant and an unnecessary burden.” See Appeal Brief at 7. As such, the petitioner fails to describe in probative detail her joint residences with E-P-, their shared residential routines, and visits and social gatherings with friends at their residence. Her neighbor does not describe his visits to their home, and although Ms. [REDACTED] briefly describes a dinner at the couple’s home, the petitioner’s other friends and mother-in-law do not describe ever having visited the marital residence. When viewed in the totality, despite the quantity of evidence submitted and given the derogatory information in the record, the preponderance of the evidence fails to establish that the petitioner resided with E-P- during their marriage as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

### *Good-Faith Marriage*

In our prior decision we stated that the petitioner failed to establish that she married E-P- in good faith. On motion, the petitioner states that E-P- proposed to her on Valentine’s Day and she married him in a small civil ceremony at City Hall on May 2004. She recounts that E-P-’s mother was at their civil ceremony. She states that that E-P- did not earn much money and they could not afford a wedding party or honeymoon and furnished their apartment with items from thrift stores. She indicates that she and E-P- would spend time together having coffee and meals at home, going out to the movie theater and the grocery store, and meeting with friends. The petitioner, however, only briefly described a few shared experiences with E-P- and does not discuss in probative detail the first time she met E-P-, their courtship, civil ceremony, marital residences, or other shared experiences with E-P-.

On motion, the petitioner states that she does not need to prove that she married E-P- in good faith and resided with E-P- because she previously filed a Form I-360 which was approved and thus she assumed the evidence already in the record was sufficient. See Appeal Brief at 7-8. However, the petitioner was on notice that the evidence currently in the record was insufficient to establish her good-faith entry into the marriage as the director revoked approval of that petition because the petitioner failed to establish her good-faith marital intent and joint residence with E-P-, and we previously affirmed the director’s decision to revoke the Form I-360 on those grounds. In this case, in her affidavits, the petitioner briefly describes meeting her husband and states that they were engaged and married, but does not

describe their courtship, wedding, or any of their shared experiences in meaningful detail. Similarly, the affidavits from friends and acquaintances are general and do not discuss in probative detail their observations of the petitioner's interactions with or feelings for her husband during their courtship or marriage. When viewed in the aggregate, the relevant evidence does not demonstrate, by a preponderance of the evidence, that the petitioner married E-P- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

On motion, the petitioner has not established that she married her husband in good faith and that she resided with her husband. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In these proceedings, the petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Approval of the petition will remain revoked.

**ORDER:** The motion is granted. The September 8, 2014, decision of the Administrative Appeals Office is affirmed. The appeal remains dismissed and the petition's approval remains revoked.