



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

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

MATTER OF M-A-A-

DATE: DEC. 21, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act), § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on a finding that the evidence did not establish that the Petitioner entered into marriage with his U.S. citizen spouse in good faith. The Petitioner filed a timely appeal.

**I. APPLICABLE LAW**

Section 204(a)(1)(A)(iii)(I) of the Act provides that an alien who is the spouse of a U.S. citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the U.S. citizen spouse in good faith and that, during the marriage, the alien or a child of the alien was battered or subjected to extreme cruelty perpetrated by the alien's spouse. In addition, the alien must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

Section 204(a)(1)(J) of the Act further states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) . . . or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

The eligibility requirements for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which provides, in pertinent part:

(b)(6)

*Matter of M-A-A-*

(ix) *Good faith marriage.* A spousal self-petition cannot be approved if the self-petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws. A self-petition will not be denied, however, solely because the spouses are not living together and the marriage is no longer viable.

The evidentiary guidelines for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

(i) *General.* Self-petitioners are encouraged to submit primary evidence whenever possible. The Service will consider, however, any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

.....

(vii) *Good faith marriage.* Evidence of good faith at the time of marriage may include, but is not limited to, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. Other types of readily available evidence might include the birth certificates of children born to the abuser and the spouse; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.

## II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner, a native and citizen of Jordan, last entered the United States on January 5, 2011, as a B-2 nonimmigrant visitor. He married T-R-<sup>1</sup> a U.S. citizen, on [REDACTED] 2012, in [REDACTED], Texas. T-R- filed a Form I-130, Petition for Alien Relative, on the Petitioner's behalf on November 20, 2012. The Form I-130 was denied based on a finding that T-R- did not establish that the marriage was *bona fide*. The Petitioner had also filed a related Form I-485, Application to Adjust Status or Register Permanent Residence, which was denied based on the denial of the Form I-130.

The Petitioner filed the Form I-360 on August 11, 2014. The Director issued a request for evidence (RFE) of, among other things, the Petitioner's good-faith entry into his marriage to T-R-. The Petitioner responded to the RFE with additional evidence, which the Director found insufficient to demonstrate that the Petitioner married T-R- in good faith. Therefore, the Director denied the Form I-360. The Petitioner filed a motion to reopen and a motion to reconsider, which the Director granted. However, the Director affirmed the denial of the Form I-360.

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

(b)(6)

*Matter of M-A-A-*

We review these proceedings *de novo*. Our review of all relevant evidence in the record does not demonstrate that the Director's decision was in error. Therefore, we will dismiss the appeal.

### III. GOOD-FAITH MARRIAGE

The preponderance of the evidence does not establish that the Petitioner married T-R- in good faith. The Petitioner contends in his brief that the Director's finding is in conflict with the Director's conclusion that the Petitioner was battered or subjected to extreme cruelty during the marriage. The Petitioner argues that "[p]eople who are 'not *really* married' do not commonly get into serious marital disagreements." Similarly, the Petitioner argues that the Director erred in finding that the Petitioner's joint residence with his spouse did not establish that he married his spouse in good faith. He contends that cohabitation should be considered adequate proof of good-faith marriage. However, pursuant to 8 C.F.R. § 204.2(c)(1)(ix), the Petitioner must establish that he entered into the marriage with T-R- in good faith, which requires that his intent to marry T-R- was for reasons other than to circumvent the immigration laws. Joint residence is not dispositive as to whether he did so. Furthermore, battery or extreme cruelty, joint residence, and good-faith marriage are separate requirements under section 204(a)(1)(A)(iii)(I) of the Act. Each requirement is defined differently under 8 C.F.R. § 204.2(c)(1) and different types of evidence are relevant to each, as explained at 8 C.F.R. § 204.2(c)(2). Establishment of one requirement does not automatically establish the others. The Petitioner bears the burden of establishing each requirement separately, by a preponderance of the evidence.

In his 2014 personal declaration, submitted with the Form I-360, the Petitioner stated that he dated T-R- for over a year and a half before marrying her on [REDACTED], 2012. He indicated that their marriage went well at first but that T-R- began to demand gifts and money in approximately August 2013. The remainder of his 2014 declaration focused on the abuse he suffered during his marriage to T-R-.

The Petitioner submitted an additional personal declaration, dated January 15, 2015, in response to the RFE. In that declaration, he claimed that he met T-R- at a restaurant in January 2011. He stated that he "saw a cute girl" and offered to help her choose what to eat. The Petitioner asserted that he and T-R- began talking and he thought she was nice, so he gave her his phone number and asked for her phone number. He indicated that he called T-R- a few days later and they began calling and sending text messages to each other. He stated that their first date occurred on February 15, 2011, at a restaurant, and that they went out on dates to various restaurants approximately every ten days thereafter. The Petitioner claimed that he sometimes spent the night at T-R-'s home and she sometimes spent the night at his. He further reported that he and T-R- watched movies and television together at home, went shopping, and went to cafes and restaurants, where they sometimes met with friends. According to the Petitioner, at the end of 2011, he and T-R- decided that they would move in together. He stated that he moved into T-R-'s apartment in March 2012, after his lease expired. The Petitioner indicated that he asked T-R- to move into his apartment, but that she wanted to stay at her own apartment. He asserted that he and T-R- lived with her son, [REDACTED] for

*Matter of M-A-A-*

whom the Petitioner was a father figure. The Petitioner explained that [REDACTED] has special needs, and that he helped the Petitioner care for [REDACTED]. The Petitioner also stated that he enjoyed cooking for T-R- and [REDACTED] and that fish was their favorite meal. He claimed that he cleaned after cooking, and he and T-R- divided the other household chores.

According to the Petitioner, he and T-R- made a decision in August 2012 that they would get married because they “were in love and wanted to build a life together.” He alleged that he and T-R- bought new clothes and exchanged rings at the wedding ceremony. The Petitioner stated that they ate at a restaurant after the ceremony and then, pursuant to T-R-’s wishes, went to surprise her mother with the news that they were married. He also stated that they had a small party at their apartment on the night of their wedding with a friend, T-R-’s mother and half-sister, and [REDACTED]. With regard to life after the wedding, the Petitioner claimed that he and T-R- continued to go out to eat at restaurants once or twice per month, celebrated holidays with T-R-’s mother and half-sister, and went grocery shopping together. He stated that T-R- was “supportive” and that he bought gifts for her and [REDACTED]. The Petitioner also described the daily schedules he and T-R- followed at work and at home.

The Petitioner’s January 15, 2015, declaration contained some details regarding his relationship with T-R-. He described their first meeting and provided specific information about their first date. However, his description of the courtship otherwise lacked probative detail; he provided the names of restaurants and shopping locations they allegedly frequented and general descriptions of shared interests, but did not discuss specific times they spent together. Additionally, he did not state how he felt about T-R- or provide other probative details about his feelings in regard to the couple’s relationship. Furthermore, the Petitioner did not provide details about how or why he and T-R- decided to get married, such as his proposal and T-R-’s reaction, or how the couple told their families and friends about their engagement. Although he briefly mentioned the wedding ceremony, he did not describe the location of the event, the content of the ceremony, or state whether any cultural or religious traditions were incorporated. He also did not describe how he felt on the day of the wedding. Furthermore, the Petitioner did not explain why he and T-R- informed her mother and a mutual friend of their marriage after the ceremony occurred, nor did he state whether they informed anyone prior to the event, or whether anyone attended the wedding ceremony. Although the Petitioner provided some detail regarding his life with T-R- and [REDACTED] in their apartment after the wedding, that information is more relevant to the Petitioner’s claim that he resided jointly with T-R-, and is not sufficient to overcome the lack of detail with regard to the other aspects of the relationship.

In response to the RFE, the Petitioner provided a statement from T-R-, dated January 15, 2015. She stated that she and the Petitioner met at a restaurant more than four years earlier and began a relationship. T-R- indicated that they “had many dates and . . . began to get serious,” so the Petitioner moved in with her in March 2012, and they got married in [REDACTED] 2012. According to T-R-, they “got married, like most people, with the intent to continue [their] loving relationship and to be together forever.” She also stated that she and the Petitioner continued to live together, as of the date of her statement, and still loved each other. T-R- did not provide any probative details

(b)(6)

*Matter of M-A-A-*

regarding her first meeting, courtship, or marriage with the Petitioner. In addition, the statement from T-R- does not discuss in probative detail the Petitioner's intent in entering into the marriage. T-R- states that she and the Petitioner had the joint intent to be "together forever" but she does not provide detailed or specific information regarding ways in which the Petitioner expressed his intentions in the marriage.

The Petitioner also supplied statements from several friends in response to the RFE. [REDACTED] stated that he was friends with the Petitioner and T-R- and was aware that they resided together with [REDACTED]. The statement from Mr. [REDACTED] lacks probative detail regarding the Petitioner's relationship with T-R- and he did not provide any specific information regarding how he met the Petitioner and T-R-, the relationship between the Petitioner and T-R-, or any events or activities at which the Petitioner and T-R- were both present. [REDACTED] indicated that, when the Petitioner met T-R-, he told Mr. [REDACTED] that "he met a cute, nice person who was like an angel on Earth." Mr. [REDACTED] claimed that he already knew T-R-, and he felt that the Petitioner and T-R- were a good match. According to Mr. [REDACTED], T-R- gave the Petitioner rides when he did not have a car, and the Petitioner bought gifts for T-R-. Mr. [REDACTED] also stated that he went to restaurants with the Petitioner and T-R- approximately once per month, and that he was aware that they lived together. Mr. [REDACTED] indicated that the Petitioner was a father figure to [REDACTED]. Additionally, Mr. [REDACTED] stated that he was surprised to learn, on the night of the wedding, that the Petitioner and T-R- had married. He reported that he celebrated with the Petitioner and T-R-'s family at their apartment. According to Mr. [REDACTED] the Petitioner and T-R- had a happy marriage at first. The statement from Mr. [REDACTED] while containing more information than the statement from Mr. [REDACTED] also lacks probative detail. Mr. [REDACTED] states that he was aware of the Petitioner's dating relationship with T-R- and celebrated with the couple on the night of their marriage, but he did not provide detailed, probative descriptions of the wedding celebration or any other specific event or activity involving the Petitioner and T-R-.

The Petitioner argues on appeal that the Director erred in finding that the supporting statements the Petitioner submitted in response to the RFE lacked sufficient detail. The Petitioner contends that the Director did not provide an explanation for finding that the statements were false, and improperly required corroborating evidence for the statements. The Director did not find that the statements were false, but gave them diminished evidentiary weight due to their lack of detail. Similarly, the Director did not require corroborating evidence. We, and the Director, consider any credible evidence. Section 204(a)(1)(J) of the Act. However, the statements themselves lack probative detail and are insufficient to establish the Petitioner's claim of entering into his marriage in good-faith.

Other supporting evidence in the record includes 2014 and 2015 leases for the apartment the Petitioner and T-R- shared, reflecting that they both signed the leases and were listed as tenants; an apartment resident history report listing both as tenants; and a letter from the apartment manager, stating that the Petitioner resided with T-R- in her apartment beginning on January 1, 2014, but was not added to the lease until April 2014 due to his immigration status. Additionally, the Petitioner supplied a cable bill, dated May 13, 2014, addressed to the Petitioner at the address he shared with T-R-; [REDACTED] card bills for March 2014 to March 2015, listing the name of the Petitioner, the more recent of which are addressed to the Petitioner at the shared address and the older of which are

*Matter of M-A-A-*

addressed to him at a post office box; [REDACTED] bills for May 2014 to March 2015, addressed to the Petitioner at the shared address; copies of credit cards bearing the names of the Petitioner and T-R-; a cellular telephone bill, dated December 9, 2014, addressed to the Petitioner at the shared address; an energy bill, dated November 26, 2014, addressed to T-R- at the shared address; and one water bill, dated December 16, 2014, addressed to both the Petitioner and T-R- at the shared address. This documentation indicates that the Petitioner and T-R- were listed on bills at a common address, but does not establish the Petitioner's intentions in entering into marriage with T-R- when viewed along with the testimonial evidence that lacks details of the Petitioner's intentions and the couple's relationship.

Furthermore, the Petitioner stated in his July 29, 2014, declaration that he decided to leave T-R- in April 2014. Although the Petitioner later stated in his January 15, 2015, declaration that he was still in a relationship with T-R-, he did not address his 2014 statement that he had decided to leave or state whether he left. In the decision on motion, the Director addressed the Petitioner's assertion that he decided to leave T-R- in April 2014, and stated that the record did not clarify why the Petitioner submitted documentation indicating that he commingled his finances with T-R- after April 2014. On appeal, the Petitioner does not assert that he continued in a relationship with T-R- after April 2014. Instead, he alleges in his appeal brief that the evidence that the Petitioner did not "cut off his wife financially" immediately after separating in April 2014 should be considered a positive factor, not a negative one. In addition, a statement by the Petitioner, dated March 4, 2015, and submitted on appeal does not address his intent when he entered into the marriage with T-R- and, instead, indicates that he will provide "new affidavits [*sic*] with more details about the dynamics of the relationship." The Petitioner does not provide any new affidavits on appeal.

The majority of the documentation the Petitioner submitted relates to periods after his April 2014 separation date. For example, the documentation from the apartment indicates that he was added to the lease in April 2014, the same month he claims to have separated from T-R-. All but one of the credit card bills the Petitioner submitted cover billing periods after April 2014. All of the utility bills mailed to the shared apartment were issued in late 2014. Additionally, the Petitioner supplied a life insurance policy for T-R-, dated December 29, 2014, listing the Petitioner as the beneficiary. The record does not clarify why T-R- opened a life insurance policy listing the Petitioner as the beneficiary after the Petitioner left her. The record also includes two car insurance policies, dated January 31, 2014, and May 22, 2014, listing the Petitioner as the primary insured and T-R- as an additional driver. As with the life insurance policy, the record does not establish why the Petitioner obtained the May 2014 policy after deciding to leave T-R- in April 2014. The Petitioner also submitted federal income tax return transcripts for 2013 and 2014, listing the Petitioner and T-R- as "Married Filing Joint." The 2013 tax return transcript is one of very few pieces of supporting evidence relating to the period prior to the Petitioner's claimed date of separation from T-R-. When viewed in light of the Petitioner's July 2014 assertion that he decided to leave T-R- in April 2014, the supporting documentation he submitted, most of which relates to time periods after April 2014, carries little evidentiary weight.

The Petitioner also submitted several labeled photographs showing him and T-R- at their wedding ceremony and together with T-R-'s family members. These photographs establish that the Petitioner and T-R- were married in a ceremony and spent time together on two or three other occasions. The photographs cannot establish the Petitioner's intentions in marriage where his own declarations lack detail regarding the marriage and the documentary evidence does not support his claims.

The Petitioner asserts in his appeal brief that his marriage was *bona fide* at its inception, and that a denial based on a sham marriage must be based on substantial and probative evidence of fraud. He cites *Matter of Tawfik*, 20 I&N Dec. 166 (BIA 1990), in support of his assertion. He declares that there is no evidence to support a finding that his marriage was a sham and that the Director did not present evidence to "balance against" the evidence he submitted to show that his marriage was in good faith. However, the Petitioner's Form I-360 has not been denied based on a finding that his marriage was a sham. *Matter of Tawfik* involved a determination that approval of an individual's visa petition was barred by section 204(c) of the Act, 8 U.S.C. § 1154(c), because the individual had previously entered into a marriage for the purpose of evading the immigration laws. *Id.* at 167. Section 204(c) of the Act is not relevant to the Petitioner's current petition. In this case, the Petitioner bears the burden of establishing by a preponderance of the evidence that his marriage to T-R- was in good faith. The evidence in this case, when considered in the aggregate, does not meet that burden. Therefore, the Petitioner has not provided sufficiently detailed evidence to establish that he entered into marriage with T-R- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

#### V. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence that he married T-R- in good faith. Therefore, the Petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In these proceedings, the Petitioner bears the burden of proving eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden. Accordingly, the appeal is dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of M-A-A-*, ID# 15076 (AAO Dec. 21, 2015)