



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

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

MATTER OF E-O-R-

DATE: DEC. 24, 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 United States 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.

I. APPLICABLE LAW

Section 204(a)(1)(A)(iii)(I) of the Act provides that a petitioner who is the spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the petitioner or a child of the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. In addition, the petitioner 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).

II. FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Mexico who entered the United States in June 1988, without inspection, admission, or parole. The Petitioner married his U.S. citizen wife, M-C-P,¹ on [REDACTED] 1993, in California. U.S. Citizenship and Immigration Services (USCIS) records show that the Petitioner was granted conditional lawful permanent resident status on or about March 30, 1995. The Petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on August 15, 2014. The Director subsequently issued requests for evidence (RFE) of, among other things, the Petitioner's entry into the marriage in good faith and his and his wife's joint residence. The Director found the Petitioner's responses to the RFEs insufficient and denied the petition finding the Petitioner did not establish the requisite entry into the marriage in good faith and joint residence. On appeal, the Petitioner submits an affidavit and copies of previously submitted evidence.

¹ Name withheld to protect the individual's identity.

III. ANALYSIS

We review these proceedings *de novo*. USCIS records show that the Petitioner was granted conditional lawful permanent resident status and although his Form I-751, Petition to Remove Conditions on Residence, was denied, the record contains no evidence that he has lost his lawful permanent resident status. Lawful permanent resident status terminates upon entry of a final administrative order of removal. 8 C.F.R. § 1.2 (noting the definition of *Lawfully admitted for permanent residence*). See also *Etuk v. Slattery*, 936 F.2d 1433, 1447 (2d Cir. 1991) (citing *Matter of Gunaydin*, 18 I&N Dec. 326 (BIA 1982)). There is no evidence that a final administrative order of removal has been entered against the Petitioner. Lawful permanent residency may also be lost through abandonment, rescission, or relinquishment. See *Matter of Gunaydin*, 18 I&N Dec. at 327 n.1. However, none of those circumstances exist in this matter. Consequently, the Petitioner remains a lawful permanent resident and as such, further pursuit of a separate immigrant classification is moot.

IV. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. 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.

ORDER: The appeal is dismissed.

Cite as *Matter of E-O-R-*, ID# 14738 (AAO Dec. 24, 2015)