



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

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

MATTER OF A-K-

DATE: DEC. 24, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM 1-360, 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.

I. APPLICABLE LAW

Section 204(a)(1)(A)(iii)(I) of the Act provides that an alien who is the spouse of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States 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.

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 under section 204(a)(1)(A)(iii) of the Act are explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(v) *Residence*. . . . The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser . . . in the past.

....

(vii) *Good moral character.* A self-petitioner will be found to lack good moral character if he or she is a person described in section 101(f) of the Act. Extenuating circumstances may be taken into account if the person has not been convicted of an offense or offenses but admits to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. . . . A self-petitioner will also be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she . . . committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character. A self-petitioner's claim of good moral character will be evaluated on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community.

....

(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 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.

....

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together . . . . Employment records, school records, hospital or medical records, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

....

(v) *Good moral character.* Primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. . . . If police clearances, criminal background checks, or similar reports are not available for some or all locations, the self-petitioner may include an explanation and submit other evidence with his or her affidavit. The Service will consider other

*Matter of A-K-*

credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the self-petitioner's good moral character.

....

(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. FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Greece who was admitted to the United States on March 22, 2013, under the visa waiver program. The Petitioner wed E-M-<sup>1</sup>, a U.S. citizen, on [REDACTED] 2013, in New York. The Petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on October 6, 2014. The Director subsequently issued a request for evidence (RFE) of, among other things, the Petitioner's good moral character, joint residence with E-M-, and entry into the marriage in good faith. The Petitioner timely responded to the RFE with additional evidence, which the Director found insufficient to establish the Petitioner's eligibility.

The Director denied the petition because the Petitioner did not establish that she entered into the marriage in good faith, resided with her U.S. citizen spouse, and that she is a person of good moral character. The Petitioner timely appealed the denial of the petition. On appeal, the Petitioner submits a brief and additional evidence.

We review these proceedings *de novo*. Upon a full review of the record, the Petitioner has not overcome the Director's grounds for denial. The appeal will be dismissed for the following reasons.

## III. ANALYSIS

### A. Joint Residence

The Director correctly determined that the Petitioner did not establish that she resided with E-M-. The Petitioner's Form I-360 reflects that she resided with E-M- from July 18, 2013 until June 22, 2014, and last resided with him at an apartment in [REDACTED] New York. The relevant evidence in the record includes copies of: the Petitioner's 2013 and 2014 income tax returns; joint bank statements from [REDACTED] bills addressed to the Petitioner from [REDACTED]

---

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

*Matter of A-K-*

insurance documents addressed to the Petitioner and E-M- individually; a letter addressed to E-M- from [REDACTED] a mailing label addressed to E-M-; and photographs of the couple. The Petitioner also submitted statements from her brother-in-law, [REDACTED] her friends, [REDACTED] and her co-worker, [REDACTED]

The documents from [REDACTED] and the copy of the mailing label, reflect that the couple shared a mailing address in [REDACTED]. However, the remaining documentation is of little probative value. The Petitioner submitted income tax returns for 2013 and 2014 as evidence of joint residency. However, the tax returns are not signed and there were no indication that they were filed with the Internal Revenue Service. The Petitioner also submitted a number of undated and unlabeled photographs with E-M- to substantiate her claim of joint residency. However, these photographs solely depict the Petitioner and E-M- during social outings and without probative testimony, are insufficient to establish the Petitioner's marital residence with E-M-.

In response to the RFE, the Petitioner submitted a personal statement recounting the alleged abuse, but she did not further describe her residence with E-M-, their shared belongings, and residential routines, or provide any other substantive information sufficient to demonstrate that she resided with E-M- after their marriage. The statements from the Petitioner's friends and co-worker also primarily focus on the abuse and do not establish that the Petitioner jointly resided with E-M-.

In his statement, [REDACTED] indicated that the couple asked him to be a wedding sponsor. The remainder of his statement does not provide any details of the couple's residence. [REDACTED] a friend and co-worker of E-M-, indicated in her statement that she met the Petitioner eight months after she married E-M-. The rest of her statement addresses the abuse in the marriage. [REDACTED] recounted in her statement that she and the Petitioner worked together for four months and she witnessed abuse in the marriage. Similarly, her statement does not mention any interaction with the couple or their joint residence. [REDACTED] indicated in his statement that he used to socialize with both the Petitioner and E-M-, but he does not provide any probative details of his interactions with the couple at their residence. Nor does he describe any visits to the couple's home. [REDACTED] indicated in his statement that he met the couple the first month after they got married, but he did not see them often because he had a busy schedule. [REDACTED] indicated in her statement that she has known the Petitioner and E-M- since the beginning of their relationship and the couple had asked her to be a witness at their wedding. [REDACTED] statement also does not provide any probative details of her interactions with the couple at their residence. The Petitioner's brother-in-law, [REDACTED] indicated in his statement that he was present at the couple's wedding and has resided with them since after the marriage. However, he does not provide any probative details of his interactions with the couple at their residence, or describe the home in any detail.

On appeal, the Petitioner asserts that she and E-M- jointly resided together, but the Petitioner does not provide any additional testimony regarding the claimed joint residence. Although the Petitioner submitted some documentary evidence of a shared mailing address, her own statement and the

*Matter of A-K-*

statements submitted on her behalf do not contain probative testimony establishing that she jointly resided with E-M-. Accordingly, the Petitioner has not established by a preponderance of the evidence that she resided with her E-M- after their marriage as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

B. Good-Faith Entry into the Marriage

The relevant evidence submitted below and on appeal also does not demonstrate the Petitioner's entry into her marriage in good faith. In her personal statement, the Petitioner recounted that she met E-M- in January 2012 at a café in [REDACTED] Greece, where he worked. She stated that they exchanged phone numbers and "hung out" a few times, but one month later E-M- left to complete his Greek military service. She recounted that upon his return from military service, E-M- decided to travel to New York "to do something new for his future." The Petitioner stated that twenty days later, she also traveled to New York, where her father resided. The Petitioner indicated that after she arrived in New York, she and E-M- continued to spend time together. The Petitioner recalled being surprised when E-M- proposed just as her visa was about to expire. She stated that on [REDACTED] 2013, she wed E-M- at City Hall and then she began the preparations for their Greek wedding. Her statement did not provide detailed information regarding the couple's courtship, shared residence and experiences.

Similarly, the statements from her friends and brother-in-law did not provide any additional details of the Petitioner's marital intentions. [REDACTED] and [REDACTED] only focused on the abuse in the marriage, and do not discuss the Petitioner's good-faith intentions in entering the marriage. [REDACTED] indicated he knew everything about the couple from day one, but he does not provide details of what he knew about the couple's relationship or courtship. [REDACTED] and [REDACTED] indicated that they met the Petitioner after she was already married. Their statements provide no details about the couple's relationship and, therefore, are not probative in establishing the Petitioner's good-faith entry into her marriage. [REDACTED] stated that she knew the couple before they got married, but she also does not provide specific details of the couple's courtship, or marital intentions, other than the couple asked her to be a witness at their wedding. None of the Petitioner's friends describe any particular visit or social occasion with the couple, or any interactions with the couple that would establish their personal knowledge of the relationship.

In addition, the Petitioner's documentary evidence and photographs reflect that the Petitioner and E-M- shared the same mailing address, and were pictured together on a few occasions; however, they do not show that the Petitioner entered the marriage in good faith. As discussed, the 2013 and 2014 tax returns are not signed, there is no indication that they were filed with the Internal Revenue Service, and the filing status on the 2014 tax return is married filing separately. The [REDACTED] statements show a joint account with little transaction activity. The Director correctly determined that the preponderance of the evidence submitted below does not establish the Petitioner's good-faith entry into the marriage.

*Matter of A-K-*

On appeal, the Petitioner contends the Director erred in concluding that the documentation submitted was insufficient to show a good-faith marriage. In this case, without a more detailed, substantive description from the Petitioner herself about her marital intentions, the preponderance of the evidence does not show that she entered into the marriage in good faith. The Petitioner's statements provide no probative account of the couple's courtship, wedding ceremony, shared residence, or shared experiences, and there are no additional affidavits in the record from individuals with personal knowledge of the couple's relationship. The photographs submitted contain no dates and descriptions. They simply show Petitioner and E-M- socializing, but they do not identify when and where they were taken and without probative testimony, are insufficient to establish the Petitioner's entry into the marriage in good faith. Accordingly, the record does not establish by a preponderance of the evidence that the Petitioner entered into the marriage in good faith as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

C. Good Moral Character

The regulation at 8 C.F.R. § 204.2(c)(2)(v) states that primary evidence of a Petitioner's good moral character is an affidavit from the Petitioner, accompanied by local police clearances or state-issued criminal background checks from each place the Petitioner has lived for at least six months during the three-year period immediately preceding the filing of the self-petition (in this case, during the period beginning in October 2011 and ending in October 2014). As proof to satisfy this requirement, the Petitioner submitted proof that she had no criminal record in the New York, where she has resided since arriving in the United States in March 2013. The Director determined that this was insufficient and issued an RFE requesting additional evidence of her good moral character from Greece. In the RFE Petitioner was advised that if the police clearances, criminal background checks, or similar reports are not available for some or all of the locations, to submit an explanation and other evidence to support her affidavit. Evidence may include affidavits from responsible person who can knowledgeably attest to her good moral character. The Petitioner did not submit any additional information to explain why the records from Greece were not available, nor did she submit statements from persons who can knowledgeably attest to her good moral character. The Director correctly determined that since the Petitioner had not submitted police clearances or criminal background checks or similar reports from Greece, where she resided for at least six months during the three year period, the Petitioner had not established her good-moral character.

On appeal, the Petitioner resubmits the local police clearance from [REDACTED] New York, dated October 29, 2014. The Petitioner did not submit any additional documents attesting to her good moral character. Accordingly, the petitioner has not established that she is a person of good moral character, as required by section 204(a)(1)(A)(iii)(II)(bb) of the Act.

IV. CONCLUSION

On appeal, the Petitioner has not established that she resided with E-M-, married E-M- in good faith, and that she is a person of good moral character. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. Accordingly, the appeal will be dismissed and the petition will remain denied for the above-stated reasons.

*Matter of A-K-*

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 A-K-*, ID# 15148 (AAO Dec. 24, 2015)