



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

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

MATTER OF T-A-S-

DATE: NOV. 17, 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.

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, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

Section 204(a)(1)(J) of the Act 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 are explained further 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.

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(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 standard and guidelines for a self-petition filed under section 204(a)(1)(A)(iii) of the Act are explained further 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, utility receipts, school records, hospital or medical records, birth certificates of children . . . , deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

....

(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. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner, a citizen of Indonesia, was last admitted to the United States on April 25, 2006, as a B-2 nonimmigrant visitor, with permission to remain until October 24, 2006. The Petitioner indicates that he has not left the United States since his last entry. On [REDACTED] 2010, he married C-Z-M,¹ a citizen of the United States. They were divorced on [REDACTED] 2014. The Petitioner filed the instant petition on September 4, 2014. The Director denied the petition on March 31, 2015,

¹ Name withheld to protect the individual's identity.

finding the record insufficient to establish that the Petitioner married C-Z-M- in good faith. The Petitioner filed a timely appeal.

We review these proceedings on a *de novo* basis. A full review of the record, including the relevant evidence submitted on appeal, does not establish the Petitioner's eligibility, and we will dismiss the appeal for the following reasons.

III. GOOD-FAITH ENTRY INTO MARRIAGE

On appeal, the Petitioner asserts that the Director erroneously focused on evidence of “shared meaningful experiences,” required evidence beyond that required by regulation, and did not consider all of the evidence submitted to demonstrate that he entered into his marriage in good faith. The Petitioner also asserts that because of his religion he does not have evidence of their courtship, but he has “collected every document he could” and when considered in the totality, a preponderance of the evidence demonstrates his good-faith intent in marrying C-Z-M-.

The regulations at 8 C.F.R. § 204.2(c)(2) require U.S. Citizenship and Immigration Services (USCIS) to consider “any credible evidence relevant to the petition.” Therefore, an adjudicator needs to reasonably consider all evidence in the record that has probative value, and in so doing, render a decision substantially supported by such evidence. A review of the record indicates that although the Director did not specifically address each piece of evidence and claim made by the Petitioner or on his behalf, the decision is supported by the evidence in the record and demonstrates that reasoned consideration was given to that evidence.

The Director's denial summarized the Petitioner's statements and those submitted on his behalf, noting they described C-Z-M-'s treatment of the Petitioner during their marriage in general terms and lacked details of their “courtship, wedding, joint residence or any ... shared experience in meaningful detail.” The Director referenced statements from the Petitioner's friends and family members, concluding that there were insufficient details of interactions between the Petitioner and C-Z-M- and his feelings for her and how the relationship developed to conclude that the Petitioner entered into the marriage in good faith. Although the Director referred to a lack of “commingled assets” and did not specifically address all evidence submitted by the Petitioner, the record does not support a finding that the Director ignored or mischaracterized the Petitioner's evidence, or applied an erroneous standard of review.

In his personal statement dated June 27, 2014, the Petitioner indicated that he initially met C-Z-M- in June 2008 at a barbecue held by an Indonesian organization in ██████ New York. The Petitioner described her physical characteristics and stated he “immediately found her attractive.” The Petitioner also generally indicated that they subsequently communicated via the telephone as she lived in Pennsylvania, and after many conversations, he realized they had similar personalities and shared cultural and religious values. The Petitioner further indicated that they had many mutual friends and spent the majority of their “downtime” at the mosque and mosque-sponsored events, and despite his desires to visit C-Z-M-, “as devout Muslims, [they] were prohibited from dating.” The Petitioner generally stated that their two and one-half year relationship blossomed from a friendship

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into “a serious relationship,” but he did not discuss their courtship in probative detail and did not describe any specific occasions such as times spent together at the mosque or their telephone discussions.

In addition, the Petitioner generally indicated that he and C-Z-M- were married at City Hall in [REDACTED] on [REDACTED], 2010, and they also had a wedding ceremony at a mosque in [REDACTED] New York, as well as two wedding receptions at mosques in New York and Pennsylvania. The Petitioner also stated that they did not celebrate with a honeymoon because of their financial circumstances. The Petitioner recalled that soon after their marriage, he quit his job in New York so he could join C-Z-M- at an unspecified residence in Pennsylvania. However, he did not provide any further details of their wedding ceremonies and receptions, their married life, and residence during the marriage, other than as it relates to the abuse.

In his response to a request for evidence (RFE) dated November 25, 2014, the Petitioner reiterated that he met C-Z-M- in 2008 at the mosque; they had similar personalities and values; they were unable to date due to religious prohibitions, but attended other events at the mosque where they had mutual friends; and they had secular and religious wedding ceremonies as well as two receptions. The Petitioner indicated that after their wedding, C-Z-M- encouraged him to move from the mosque in [REDACTED] New York, to her residence located at [REDACTED] Pennsylvania, which he did approximately four months later, around August 6, 2010. The Petitioner further indicated that when his son came to the United States in November 2011, he began residing with them at the claimed marital home. As in his June 2014 personal statement, the Petitioner did not elaborate on any specific shared occasions during their courtship and provided no probative details of the wedding ceremonies and receptions, the period of time after their marriage while still residing apart, and their married life and residence, other than as it relates to the abuse.

In support of his appeal, the Petitioner submits a personal statement dated May 19, 2015, in which he reiterates the general details about their courtship, wedding ceremony and receptions, already discussed in his prior statements. The Petitioner further relays that they were each previously married, but were “confident that [they] were compatible and would live happily together.” The Petitioner states that after he moved to C-Z-M-’s residence in [REDACTED] around August 2010, she subsequently helped him to find a job where she had been working with an unspecified employer, and everyone there “got to know [him] quickly as her husband.” As in his previous statements, the Petitioner did not elaborate on any specific shared occasions during their courtship, wedding ceremonies and receptions, and their married life and residence, other than as it relates to the abuse.

The letters submitted on the Petitioner’s behalf do not contain any further probative and detailed information to establish the Petitioner’s good-faith entry into his marriage. Included with his response to the RFE, the Petitioner included a statement from his son, who indicated that an aunt took him to the United States in 2011 so he could live with the Petitioner and C-Z-M- at C-Z-M-’s house. Although he generally described his room as “very small” and indicated that C-Z-M-’s youngest daughter also lived with them, the Petitioner’s son did not provide any further description of the marital residence and interactions between the Petitioner and C-Z-M-, other than as it relates to the abuse.

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In their statements, several of the Petitioner's friends and co-workers generally discussed when they met the Petitioner, indicating that they have known the Petitioner and C-Z-M- as a married couple residing together at the [REDACTED] address; however, they did not elaborate on interactions they observed, and the Petitioner and C-Z-M-'s relationship and marital residence, other than as it relates to the abuse.

In addition, the record contains inconsistent information concerning the Petitioner and C-Z-M-'s relationship and their marital residence. In his June 2014 personal statement, the Petitioner indicated that a wedding reception in Pennsylvania was held at an unspecified mosque to celebrate his marriage to C-Z-M-. However, in his 2015 personal statements, the Petitioner indicates that the reception in Pennsylvania was held at an unspecified friend's house. Also in his 2015 statements, the Petitioner indicates that he moved from his residence at the mosque in New York, where he had been living, to C-Z-M-'s residence around August 6, 2010. However, on his Form I-360 and in a separate Form G-325A, Biographic Information, dated January 21, 2014, the Petitioner indicated that he lived at the [REDACTED] address from April 2010 through December 2011. The Petitioner also provided [REDACTED] as his current address on his Form I-693, Report of Medical Examination and Vaccination Record, dated April 6, 2010. On an additional Form G-325A dated April 22, 2010, the Petitioner indicated that he began living at the [REDACTED] address in March 2010. Similarly, the Certificate of Marriage Registration submitted to demonstrate the Petitioner's and C-Z-M-'s marriage indicates that the Petitioner and C-Z-M- were residing at the [REDACTED] address as of the date of their marriage in [REDACTED] 2010. Finally, although the Petitioner's son indicated in his supporting letter that he resided with the Petitioner and C-Z-M- in C-Z-M-'s home, his Form G-325A submitted in support of his adjustment of status application, does not indicate that he ever resided at the alleged marital residence at [REDACTED].

Also on his January 2014 Form G-325A, the Petitioner indicated that he began working in Pennsylvania in January 2010, but in his May 2015 personal statement, he indicates that he began working in Pennsylvania after he moved in with C-Z-M- around August 6, 2010, and she "helped [him] to find a job where she had been working." Moreover, the Petitioner submitted payroll information indicating that he began working with [REDACTED] on December 13, 2010, the same organization the record reflects where C-Z-M- had been working.

Even without these inconsistencies, as previously discussed, the record is insufficient to establish the Petitioner's good-faith entry into his marriage. Although the Petitioner submitted joint bank account statements inclusive of a transaction history; joint tax documents for 2010; email correspondence; a letter of support indicating that he and C-Z-M- attended a mosque together in [REDACTED] Pennsylvania; photographs of himself along with C-Z-M- at their wedding ceremony and at various unidentified functions; and he submitted some documentation identifying a joint residence at the [REDACTED] address, his statements and those submitted on his behalf do not provide a probative account of their courtship, wedding ceremonies and celebrations, shared residence, and shared experiences, apart from the abuse. When viewed in the aggregate, the relevant evidence does not establish by a preponderance of the evidence that the Petitioner entered into marriage with C-Z-M- in good faith as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

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IV. JOINT RESIDENCE

Our *de novo* review of the record demonstrates that, beyond the decision of the Director, the relevant evidence does not establish by a preponderance of the evidence that the Petitioner resided with C-Z-M-.²

Although the Petitioner submitted some joint documentation listing himself and C-Z-M- at the claimed marital residence at the [REDACTED] address, his statements do not provide a probative account of their shared residence, routines, shared belongings, and experiences, apart from the abuse. The additional statements from his son, friends, and coworkers asserted that the Petitioner and C-Z-M- lived together; however, they did not describe in detail the claimed shared residence or any experiences there, apart from the abuse.

Moreover, as detailed in our earlier discussion of the Petitioner's evidence, the record contains discrepant information concerning the dates of their claimed joint marital residence. In addition, the Petitioner submits with his appeal a billing statement for dental services from September through December 2012, addressed to him at the alleged marital address, well after he indicates he was no longer residing at that address. The Petitioner also submits with his appeal a Psychological Evaluation dated February 9, 2015, in which a licensed psychologist reports internally inconsistent information by stating in one section of the evaluation that the Petitioner lived with C-Z-M- until they were separated in December 2011, but in another section that they were separated in December 2012. When viewed in the aggregate, the relevant evidence does not establish by a preponderance of the evidence the Petitioner's joint residence with C-Z-M- as required by section 204(a)(1)(A)(iii)(I)(dd) of the Act.

V. CONCLUSION

In these proceedings, the Petitioner bears the burden of proof to establish his 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); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). On appeal, the Petitioner has not met this burden.

ORDER: The appeal is dismissed.

Cite as *Matter of T-A-S-*, ID# 14470 (AAO Nov. 17, 2015)

² An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. See *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); see also *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).