



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

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

MATTER OF I-N-M-

DATE: NOV. 18, 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 petition on the basis that the Petitioner had not established that she entered into her marriage with her U.S. citizen spouse in good faith. On appeal, the Petitioner submits a brief from her counsel of record.

**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].

(b)(6)

*Matter of I-N-M-*

The eligibility requirements are further explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(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 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.

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(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 Uganda, was last paroled into the United States on January 17, 2014, to pursue her pending application for adjustment of status based on an immigrant petition filed by her U.S. citizen spouse, H-M-<sup>1</sup>. The Petitioner married H-M- on [REDACTED] 2010, in Massachusetts. The Petitioner filed the instant Form I-360 on March 21, 2013. The Director subsequently issued a request for evidence (RFE) to establish, among other things, the Petitioner's good faith intentions in entering into her marriage to H-M-. The Petitioner responded with additional evidence, which the Director found insufficient to establish the Petitioner's eligibility. The Director denied the Form I-360 and the Petitioner timely appealed.

## III. ANALYSIS

We conduct appellate review on a *de novo* basis. Upon a full review of the record, as supplemented on appeal, the Petitioner has not overcome the Director's ground for denial. The appeal will be dismissed for the following reasons.

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

(b)(6)

*Matter of I-N-M-*

A. Entry into the Marriage in Good Faith

The relevant evidence of record does not demonstrate that the Petitioner entered into her marriage to H-M- in good faith. In her written statement, the Petitioner indicated that she met H-M- at a party for a mutual friend in the summer of 2009 and they then “dated for a while.” She stated that on Valentine’s Day 2010, H-M- bought her flowers, treated her to dinner at the restaurant where he worked, and proposed to her. The Petitioner recounted that she accepted and a month later, H-M- moved into her residence with her. She stated that they were married on [REDACTED] 2010. The Petitioner indicated that “things seemed blissful” and she generally described their daily routine. She stated that around September 2010, H-M- moved to his parents’ home to look for employment after he lost his job and to be closer to his children from a prior relationship. The Petitioner indicated that between September and December 2010, H-M- visited her approximately four to five times. The Petitioner’s statement did not set forth any probative details of the couple’s initial meeting, engagement and wedding, joint residence, or any of their shared experiences, apart from the abuse.

The letters the Petitioner submitted from her friends and members of her community also do not contain probative information regarding the Petitioner’s intentions in marrying H-M-. The Petitioner’s friend and priest, [REDACTED], indicated that the Petitioner was excited about her relationship with H-M-, but he did not otherwise provide any substantive information regarding his interactions or shared experiences with the couple. Similarly, her friend, [REDACTED] discussed generally visiting the Petitioner and her spouse on “numerous” occasions, but did not further describe in probative detail any of those visits. Additionally, [REDACTED] referenced going to the couple’s home to watch the 2010 Super Bowl. However, according to the Petitioner, she and H-M- did not move in together until March 2010, a month after the Super Bowl that year, and they were no longer living together by the following year’s Super Bowl in February 2011.

Another friend, [REDACTED] indicated that she was the Petitioner’s matron of honor at her wedding and that she and her spouse often socialized together with the Petitioner and H-M-, but she provided no probative details about the wedding or any of the occasions in which she interacted with them. Her friends, [REDACTED] and [REDACTED] also referenced socializing with the Petitioner and H-M- but offered no substantive information regarding any particular visit or shared interactions with the couple. [REDACTED] stated that he would occasionally see the Petitioner and H-M- at Sunday mass and provided a general account of the couple’s involvement in various church activities, none of which were discussed by the Petitioner. The chairman of the [REDACTED] [REDACTED] stated that he was aware of the marital relationship between the Petitioner and H-M-. However, his letter focuses primarily on the Petitioner’s involvement with the community and does not detail [REDACTED] interactions with the Petitioner and H-M- as a couple.

The Petitioner also submitted joint bank statements, the majority of which are dated after her separation from H-M-. Also proffered are multiple cable bills from 2011 in H-M-’s name only. The remaining documentary evidence in the record, including the Petitioner’s marriage certificate and five photographs of the Petitioner with her spouse taken on unknown dates and locations, also does not establish the Petitioner’s good-faith intentions. The marriage certificate establishes a legal marriage, but without probative testimony, does not evidence the nature of the relationship between the Petitioner and her

spouse. Accordingly, the documentary evidence in the record, taken cumulatively, does not establish the petitioner's good-faith intentions in marrying her husband.

On appeal, the Petitioner asserts that the Director acted contrary to congressional intent by disregarding relevant and probative supporting evidence, and did not apply the "any credible evidence" standard as required. In particular, the Petitioner contends that the Director erred in finding that the Petitioner's written statement and letters from her friends lacked sufficient detail to demonstrate her good-faith marital intentions under the any credible evidence standard. The consideration of any relevant, credible evidence is an evidentiary standard by which United States Citizenship and Immigration Services (USCIS) adjudicates petitions under section 204(a)(1)(A)(iii) of the Act. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). However, USCIS has sole discretion to determine what evidence is credible and the weight accorded such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Under this evidentiary standard, USCIS is not required to find the Petitioner's evidence sufficient to establish her good faith entry into her marriage, particularly where, as here, we have specifically noted deficiencies in the record that the Petitioner has not overcome on appeal.

The Petitioner further asserts that the evidence of abuse is evidence of the *bona fides* of the relationship. The Petitioner misinterprets the statutory requirements as redundant. Section 204(a)(1)(A)(iii) of the Act prescribes five distinct statutory eligibility requirements. Although the same or similar evidence may be submitted to demonstrate, for example, joint residence and good-faith entry into the marriage, meeting one eligibility requirement will not necessarily demonstrate the other. Our review of the record indicates that the Director considered all relevant evidence and properly exercised discretion in determining the evidentiary weight of such evidence under the correct preponderance of the evidence standard. As discussed previously, the Petitioner's statements and the supporting letters in the record lack the probative detail necessary to establish the nature of the Petitioner's relationship with H-M- and her good-faith marital intentions. Thus, the statements and documentary evidence submitted below, considered cumulatively, do not establish her good-faith intent in marrying H-M-. When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the Petitioner entered into the marriage with her spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

#### IV. CONCLUSION

On appeal, the Petitioner has not overcome the Director's ground for denial as she has not established that she entered into her marriage to H-M- in good faith. 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 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); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. The appeal is dismissed.

*Matter of I-N-M-*

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-N-M-*, ID# 14469 (AAO Nov. 18, 2015)