



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

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

MATTER OF M-R-P-

DATE: OCT. 8, 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, as the Petitioner did not establish that he had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification based upon such relationship.

On appeal, the Petitioner submits a letter.

**I. RELEVANT LAW AND REGULATIONS**

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.

An alien who has divorced an abusive United States citizen may still self-petition under this provision of the Act if the alien demonstrates "a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse." Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) 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

(b)(6)

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credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

## II. FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Mexico who claims to have first entered the United States on June 15, 1991 without inspection. The Petitioner married M-J-<sup>1</sup>, a U.S. citizen, on [REDACTED], 2002, in [REDACTED] New York, and they divorced in [REDACTED], New York on [REDACTED], 2011. The Petitioner filed the instant Form I-360 on October 6, 2014. The Director denied the petition, determining that the record did not establish that the Petitioner had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification based upon such relationship. The Petitioner timely appealed.

We review these proceedings *de novo*. A full review of the record does not establish the Petitioner's eligibility. The appeal will be dismissed for the following reasons.

## III. QUALIFYING RELATIONSHIP AND CORRESPONDING ELIGIBILITY FOR IMMEDIATE RELATIVE CLASSIFICATION

The Director determined that the Petitioner did not establish a qualifying relationship with M-J-, as their marriage was terminated on [REDACTED] 2011, and the Form I-360 was not filed until October 6, 2014, more than two years later. The Director cited section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act, which allows an abused spouse of a U.S. Citizen to file a Form I-360 for up to two years following the termination of the qualifying marriage. On appeal, the Petitioner asserts that he is requesting the Supreme Court in [REDACTED] to make the necessary corrections to show that he has a qualifying relationship.

Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act prescribes that a Form I-360 must be filed no longer than two years after the legal termination of the marriage. The Petitioner's Form I-360 was received by the Vermont Service Center on October 6, 2014, more than three years after the termination of his marriage to M-J-. The record contains both a divorce decree dated [REDACTED] 2011 and a stipulation signed by the Petitioner on September 30, 2013 accepting the validity of the [REDACTED] 2011 decree. The Petitioner has submitted nothing further into the record.

Accordingly, the Petitioner has not established that he had a qualifying relationship as the spouse of a U.S. citizen, as required by section 204(a)(1)(A)(iii)(II)(aa)(AA) of the Act, and that he is eligible for immediate relative classification based upon that relationship, as required by 204(a)(1)(A)(iii)(II)(cc) of the Act.

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

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#### IV. CONCLUSION

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.

**ORDER:** The appeal is dismissed.

Cite as *Matter of M-R-P-*, ID# 13877 (AAO Oct. 8, 2015)