



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

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

MATTER OF M-A-A-A-

DATE: OCT. 20, 2015

MOTION OF ADMINISTRATIVE APPEALS OFFICE 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* section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Acting Director, Vermont Service Center, denied the petition. In a decision dated April 9, 2015, we dismissed the Petitioner's appeal. The matter is now before us on a motion to reopen and a motion to reconsider. The motions will be denied.

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, finding that the evidence did not establish that the Petitioner resided with her U.S. citizen spouse, was battered or subjected to extreme cruelty, and entered into the marriage in good faith. In our decision on appeal, we concluded that the evidence demonstrated that the Petitioner was battered or subjected to extreme cruelty by her U.S. citizen spouse, but that the evidence did not establish that the Petitioner resided jointly with her spouse and married him in good faith. Our previous decision is incorporated here by reference. The Petitioner submits new evidence on motion and therefore meets the requirements of a motion to reopen. However, because the evidence she submits is insufficient to overcome the grounds for denial discussed in our previous decision, we will deny the motion to reopen. Furthermore, we will deny the motion to reconsider because the Petitioner does not cite binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied law or agency policy or was incorrect based on the relevant evidence in the record at the time of the decision.

On motion, the Petitioner alleges that we erred in finding that the Petitioner did not reside with her spouse, K-B-,¹ during marriage. The Petitioner states that the regulation at 8 C.F.R. § 204.2(c)(1) requires only that she have resided with K-B- at some point in the past and does not mandate that she have resided with him for a particular length of time. She alleges that she resided with K-B- in Connecticut from June to December 2010, aside from the time she was in Ghana following the death of her father. She contends that she submitted evidence that she returned to Connecticut from Ghana in October 2010, and that she lived with K-B- in Connecticut prior to moving to Pennsylvania. The Petitioner also alleges that new evidence she submits on motion supports her claim that she resided jointly with K-B-.

¹ Name withheld to protect the individual's identity.

(b)(6)

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The Petitioner submits on motion a personal affidavit regarding her alleged residence with K-B-. She claims that she moved in with K-B- in Connecticut in June 2010, prior to marrying him in [REDACTED] 2010, and lived with K-B- until September 2010, when she traveled to Ghana upon the death of her father. She states that she returned to Connecticut on October 8, 2010, and remained living there with K-B- until late-December 2010, when she moved to [REDACTED]. Additionally, the Petitioner asserts that she frequently visited K-B- after she moved to [REDACTED], and that K-B- frequently visited her.

The Petitioner also submits on motion an affidavit from [REDACTED], who states that the Petitioner was in a *bona fide* marriage with K-B- and resided with him during their marriage. According to [REDACTED], the Petitioner told him, during a conversation in late-spring or early-summer 2010, that she was married and had moved to Connecticut. [REDACTED] also claims that he was a guest preacher at a church in [REDACTED] Connecticut in October 2010 and again in December 2010, and that the Petitioner and K-B- attended his sermon during both visits. [REDACTED] states that the Petitioner resided in Connecticut following her marriage to K-B-, except for the time she was in Ghana due to her father's death. [REDACTED] reports that he heard in 2012 that the Petitioner and K-B- were having difficulties in their marriage. He states that he believes that the Petitioner "will only enter a marriage with the purpose to last forever."

Although the Petitioner correctly notes that the regulation at 8 C.F.R. § 204.2(c)(1) does not require that she have resided with her spouse for a particular length of time, the evidence does not demonstrate that she maintained a "principal, actual dwelling place in fact" with K-B- during their marriage. Section 101(a)(33) of the Act; 8 U.S.C. § 1101(a)(33). As we noted in our previous decision, the record lacks detailed, probative descriptions of the home the Petitioner allegedly shared with K-B-. On motion, the Petitioner provides no further detail regarding the alleged joint residence, the furnishings or shared belongings, or marital routines in the home. Additionally, the Petitioner's affidavit on motion conflicts with the information she provided on appeal regarding her alleged joint residence with K-B-. In her Form I-360, the Petitioner indicated that she resided with K-B- from June 2010 to December 2011. However, she states on motion that she resided with him for six months, from June to December 2010. The Petitioner does not offer an explanation on motion for this discrepancy.

Furthermore, the Petitioner does not address on motion our finding that the evidence did not establish that she married her spouse in good faith. Although [REDACTED] states in his affidavit that the Petitioner's marriage to K-B- was *bona fide*, this is insufficient to overcome the lack of detail in the record regarding the Petitioner's marriage. The Petitioner does not allege, in her brief or her personal affidavit submitted on motion, that we erred in finding that she did not marry K-B- in good faith.

In these proceedings, the Petitioner bears the burden of proving eligibility for the benefit sought. 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. Here, the Petitioner has not met that burden. Accordingly, the motions are denied.

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ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of M-A-A-A-*, ID# 14626 (AAO Oct. 20, 2015)