



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

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

MATTER OF T-A-I-

DATE: SEPT. 3, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: 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 Director, Vermont Service Center (Director) 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 Nigeria, last entered the United States as a B-2 nonimmigrant visitor on May 2, 2011. She married J-J,<sup>1</sup> a U.S. citizen, on [REDACTED], 2011. The Petitioner filed the instant petition on June 7, 2012. The Director denied the Petition finding the record insufficient to establish that the Petitioner entered into marriage with her spouse in good faith. The Petitioner, through counsel, filed the instant 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.

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

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### III. GOOD-FAITH ENTRY INTO MARRIAGE

On appeal, the Petitioner asserts that the Director erred in denying her petition by requiring an “excessive” standard of proof demonstrating she married J-J- in good-faith, and states that “there are no established guidelines for the type of evidence required for proof of intent.” Contrary to the Petitioner’s assertion regarding evidentiary guidelines, to establish good-faith intent at the time of marriage, a Petitioner may submit “testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences . . . and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.” *See* 8 C.F.R. § 204.2(c)(2)(vii).

In her initial and August 2013 declarations, the Petitioner indicated that she met J-J- at a party on an unspecified date and at an unspecified location after she came to the United States in December 2010. She stated that they talked on the telephone several days later and agreed to meet for drinks. She indicated that they subsequently met at the mall or the movies as well as watched DVDs, and their relationship became intimate. She also indicated that they frequently met in the afternoons at her sister’s apartment because J-J- worked in the evenings. She further indicated that she went to Nigeria in April 2011 to spend Easter with her parents, but returned to the United States in May because she missed J-J- and they “caught up on each other and hung out and had more fun [sic].” She recounted that they spent most of their time in her room, and they talked about getting married as well as getting an apartment together. The Petitioner did not further describe their first meeting or any specific occasion spent together during their courtship.

In the undated declarations submitted in support of her appeal and a previous motion, the Petitioner stated that she met J-J- while she was living in her sister’s apartment located at [REDACTED] in [REDACTED] Florida, and that J-J- moved into the apartment shortly after their marriage in [REDACTED] 2011. She further claimed that they moved with her sister’s family to another apartment located at [REDACTED] in [REDACTED] Florida in December 2011. She generally indicated that during their relationship, they went to the movies and restaurants as well as attended family events and church services together although J-J was not very religious.

The Petitioner explained that she has been unable to provide evidence of joint assets and accounts with J-J- such as bank, retirement, and utilities; federal tax filings; insurance policies; and a residential lease or mortgage because they had limited funds and she did not have a job. She also noted that J-J- had a poor credit rating and a criminal record and further explained that she was not familiar with tax filing requirements in the United States, and they lived with her sister with the intent to save money “to eventually get our own place and build our own life.” However, the Petitioner again did not provide any further details about their relationship, such as her first meeting with J-J-, specific occasions and events attended together during their courtship, their engagement, marriage, and residences during the marriage, 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 her marriage. The Petitioner’s sister stated that upon being introduced to J-J-, she “took a liking to him.” She also generally indicated that the Petitioner and J-J- lived with her and her two children at the apartment located at [REDACTED] [REDACTED] after they were married in [REDACTED] 2011, “and this was supposed to be a temporary

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arrangement until they were able to get back on their feet and save enough money to move.” She also stated that the Petitioner and J-J- moved with her and the children to the apartment located at [REDACTED] on December 20, 2011. Other than her general claim that the Petitioner and J-J- resided with her, the Petitioner’s sister did not provide a detailed description of their living arrangements, interactions she witnessed between the Petitioner and J-J-, or other probative details about their relationship to establish their good-faith marriage, other than as it relates to the abuse.

In his supplemental letter notarized on November 25, 2013, the Petitioner’s father-in-law generally discussed that while J-J- was living with him at his address in [REDACTED] Florida, the Petitioner would sometimes visit J-J- and “they would usually go out together,” but he does not elaborate on any particular visit or discuss their courtship in any probative detail. He also indicated that he was unable to attend the Petitioner and J-J-’s wedding because of his inability to stand for a long period of time, but he attended the wedding reception that was “filled with African culture, food and clothes from brides guests [sic].” He did not, however, provide any further discussion of the relationship after the marriage to demonstrate that the Petitioner entered into the marriage in good faith.

In her supplemental letter notarized on November 25, 2013, Ms. [REDACTED] stated that she initially met J-J- at the Petitioner’s twenty-ninth birthday party in February 2011, when the Petitioner introduced J-J- as her boyfriend. Although Ms. [REDACTED] identified herself as a “family friend and big Aunty to [J-J-] and [the Petitioner]” because she provided “moral and religious support to both of them,” she did not discuss their relationship in probative detail. She indicated that the Petitioner and J-J- came to her home and announced that they were engaged and would marry soon. She relayed that she offered to assist them with the wedding arrangements, she attended the wedding ceremony and gave a toast during the reception, and she visited them a couple of times at the apartments they shared with the Petitioner’s sister, but she did not provide any further details of the wedding ceremony and reception or elaborate on any particular visit to demonstrate their marital relationship.

In additional letters of support, the Petitioner’s friends indicated that they generally knew about the Petitioner and J-J-’s relationship and visited the Petitioner and J-J- at their apartments, they either personally attended or were generally aware of the Petitioner and J-J-’s marriage, and they attended the wedding reception. However, the friends did not describe any particular visit or social occasion in detail, discuss interactions between the Petitioner and J-J- that they witnessed other than the abuse, or otherwise provide detailed information about the Petitioner and J-J-’s courtship and marital relationship to support the claim of the Petitioner’s good-faith intent in marrying J-J-.

Although the Petitioner explains why she was the only one to access their joint bank account and states that she is unable to provide additional documentation “due to facts beyond her control as she was not aware of [J-J-’s] past,” and “she lived in fear of what he might due [sic] to her,” traditional forms of joint documentation are not required to demonstrate a petitioner’s entry into the marriage in good faith. See 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). As mentioned previously, “all credible relevant evidence will be considered.” See 8 C.F.R. § 204.2(c)(2)(vii). Although the Petitioner submitted photographs of herself and J-J- on their wedding day and at various functions, and she submitted some documentation listing J-J- at the claimed residences at the [REDACTED] and [REDACTED] addresses and shared health insurance coverage, her statements and those submitted on her behalf do not provide a probative account of their courtship, wedding ceremony, shared residence, and shared experiences, apart from the abuse. When viewed in the aggregate, the relevant evidence does

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not establish by a preponderance of the evidence that the Petitioner entered into marriage with J-J- in good faith as required by section 204(a)(1)(A)(iii)(II)(aa) of the Act.

#### IV. JOINT RESIDENCE

Beyond the decision of the Director, when viewed in the aggregate, the relevant evidence does not establish by a preponderance of the evidence that the Petitioner resided with J-J-.<sup>2</sup> Although the Petitioner submitted some documentation listing J-J- at the claimed residences at the [REDACTED] and [REDACTED] addresses, her statements do not provide a probative account of their shared residences, routines, shared belongings, and experiences, apart from the abuse. The Petitioner's sister only generally claims that J-J- resided with her and does not provide a detailed description of the living arrangements or any routines witnessed when the Petitioner and J-J- purportedly lived with her and her children. Similarly, the additional statements from the Petitioner's family and friends indicate that they visited the Petitioner and J-J- at each other's residences, but do not describe in detail the claimed shared residence and any particular visit. Accordingly, we withdraw the Director's finding that the Petitioner has established her joint residence as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

#### V. CONCLUSION

The petition will remain denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In these proceedings, the Petitioner bears the burden of proof to establish her 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 will be dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of T-A-I*, ID#13048 (AAO Sept. 3, 2015)

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<sup>2</sup> 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).