



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

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

MATTER OF Y-L-

DATE: SEPT. 3, 2015

MOTION OF ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a United States 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 (the Director), denied the petition. We dismissed a subsequent appeal, concluding that although the Petitioner has established that she was battered or subjected to extreme cruelty, she had not established her good-faith marriage to her spouse, K-V-.¹ The matter is now before us on motion to reopen and to reconsider. The motion will be denied.

On motion, the Petitioner asserts that we erred in the dismissal of her appeal because we did not consider her affidavits and supporting evidence “in the totality;” we did not “give [her] the benefit of doubt [sic] in considering [her] motive in getting into the marriage to [K-V-];” and “it is unfairly [sic] to ask [her] to submit the normal joint documents to prove [her] marriage to [K-V-] in good faith” because she is “the victim” and at a “serious disadvantage” in her relationship with K-V-.

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

With the motion to reopen, the Petitioner submits new documentary evidence consisting of a personal affidavit and an affidavit from her son dated February 25, 2015.

As indicated in our previous decision, the Petitioner did not provide an explanation for her decision to marry K-V- despite expressing, in several instances, her prior reservations in entering into a relationship with him. She also did not provide a probative discussion of her courtship, wedding ceremony, and any of their shared experiences, including their residence as a couple. In her affidavit submitted in support of the motion, the Petitioner reiterates that she hesitated in marrying K-V- as she was “very skeptical” because of her two previous marriages, but that her family members

¹ Name withheld to protect the individual’s identity.

encouraged her “to embrace the happiness and do not miss the opportunities to establish a relationship with a man who was nice and wanted to marry [her] and to take care of [her] for li[f]e.” The Petitioner also reiterates that prior to their marriage, K-V- patronized the restaurant where she worked, sometimes with his co-workers, and that he gave her gifts. She generally indicates that she often cooked Chinese food for him at her residence although they sometimes went to a buffet restaurant together. She recounts visiting his home on a single occasion during their courtship, at which time he requested that she stay the night with him but she refused because of her cultural traditions. The Petitioner further reiterates that she “was very surprised, but very happy” when she arrived at her workplace on September 14, 2009, because K-V- gave her a ring, stating that he wanted to marry her that day. She indicates that same day they drove to Arkansas, where they were married in a small town, and she explains that her reference to a “beach” in Arkansas in a previous statement was in reference to a lake. She recounts that they celebrated their wedding upon returning to K-V-’s home by having pizza and red wine, and she states they “did not have a wedding[] since did not have [sic] [her] family members in Missouri” but intended to bring K-V- “to have a wedding party in China with [her] family.” The Petitioner acknowledges a courtship of more than year but provides no further descriptions of any specific times spent together during their courtship, her feelings for K-V-, and her intent in marrying K-V-.

The Petitioner indicates that she moved into K-V-’s home after they were married, and that K-V- stated he would take care of her and her son “since he has good income [sic] to take care of the family.” She generally recounts that she prepared breakfast and dinners for K-V-, discusses his food preferences, and their work schedules, including her days off. Although she also generally discusses the layout of K-V-’s home, the Petitioner does not describe any specific shared experience or occasion during their relationship in any detail and provides no further probative evidence of their times spent together as a couple and in the marital residence.

In his affidavit submitted in support of the motion, the Petitioner’s son generally relays that he met K-V- when he lived with the Petitioner in [REDACTED] Missouri. He recounts similar statements expressed by the Petitioner; K-V- gave her gifts at the restaurant where she worked, her co-workers teased the Petitioner and her son about her relationship with K-V-, and she was hesitant about marrying K-V- because of her two previous marriages. He recalls receiving a telephone call from the Petitioner in September 2009, informing him that she “registered her marriage with [K-V-],” and “after [she] agreed to marry[K-V-] under excitement, they decided to get married on that day.” The Petitioner’s son does not provide further details of the Petitioner’s courtship and relationship with K-V- or their wedding, other than as it relates to the abuse. Based on the foregoing, when viewed in the aggregate, the new evidence is not sufficient to overcome the prior determination.

The Petitioner’s submission also does not meet the requirements for a motion to reconsider. The Petitioner reiterates and asserts arguments previously raised and addressed by us on appeal concerning her good-faith intent in marrying K-V-. Contrary to her argument on appeal, the burden of proof for self-petitions is not a “benefit of the doubt,” but rather a preponderance of the evidence that she entered into the marriage with the U.S. citizen spouse in good faith and that during the marriage, she was battered or subjected to extreme cruelty perpetrated by her spouse. Section 204(a)(1)(A)(iii)(I) of the Act. In addition, 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). 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.” See 8 C.F.R. § 204.2(c)(2)(vii).

The Petitioner does not cite binding precedent decisions or other legal authority establishing that in our prior decision, we incorrectly applied pertinent law or agency policy, nor does she show that our prior decision was erroneous based on the evidence of record at the time. Consequently, the motion to reconsider must be denied. See 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be denied).

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. 127-28 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the motion will be denied.

ORDER: The motion is denied.

Cite as *Matter of Y-L-*, ID#13407 (AAO Sept. 3, 2015)