



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

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

MATTER OF T-A-I-

DATE: APR. 6, 2016

MOTION ON 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* Immigration and Nationality Act (the Act) § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director, Vermont Service Center, denied the petition and we dismissed a subsequent appeal. In our decision on appeal, we concluded that based on our *de novo* review, the record did not establish the Petitioner's good faith entry into her marriage to her U.S. citizen spouse, and that the relevant evidence also did not demonstrate she resided with him.

The matter is now before us again on a motion to reopen and reconsider. On motion, the Petitioner submits a letter from her counsel of record and additional evidence. The Petitioner claims that the new evidence submitted on motion demonstrates that her marriage was not a "sham" and is sufficient to establish that she entered into marriage with her spouse in good faith and resided with him.

Upon review, we will deny the motion.

I. APPLICABLE LAW

A motion that does not meet the applicable requirements shall be denied. 8 C.F.R. § 103.5(a)(4). A motion to reopen must state the new facts to be provided 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 (USCIS) 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).

II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Nigeria, who last entered the United States on May 2, 2011, as a B-2 nonimmigrant visitor. She married J-J-,¹ a U.S. citizen, on [REDACTED] 2011, in Florida. The Petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on June 7, 2012, based on her relationship with J-J-. The Director denied the Form I-360, finding that the Petitioner had not demonstrated that she entered into marriage with J-J- in good faith or that they resided together during their marriage. The Petitioner filed a motion to reopen and reconsider, and the Director found that the Petitioner had established her joint residence with J-J-, but denied the motion as she did not establish that she entered into her marriage in good faith. The Petitioner filed an appeal of the Director's decision, which we dismissed on September 3, 2015. The Petitioner thereafter filed the instant timely motion to reopen and reconsider.

III. ANALYSIS

A full review of the record on motion does not establish the Petitioner's eligibility. The motion will be denied for the following reasons.

In our prior decision, incorporated by reference here, we addressed the individual evidentiary deficiencies in the record and ultimately found that the Petitioner had not established her good faith intentions in marrying J-J-. We further determined that the Petitioner had also not established her joint residence with J-J-. On motion, the Petitioner does not assert any legal or factual error in our decision, and instead, submits a brief, notarized declaration from J-J-, in which he contends that, on [REDACTED] 2012, an immigration officer threatened him with prosecution for lying and pressured him into signing a "withdrawal" of the immigrant visa petition² he had filed for the Petitioner. In that letter, J-J- indicates that he wishes to take back the withdrawal and asserts that he loves the Petitioner, resided with her following their marriage, and was not paid to marry her. The Petitioner requests that this new evidence be given proper weight in overcoming concerns that her marriage to J-J- was a "sham marriage." The Petitioner, however, disregards the fact that our denial was not based on J-J-'s "withdrawal" letter and does not address any of the evidentiary deficiencies and specific grounds for denial discussed in detail in our earlier decision. Moreover, apart from J-J-'s general assertion that his marriage to the Petitioner was *bona fide*, J-J- provides no probative details in his declaration about his relationship with the Petitioner, including the circumstances of their meeting, courtship, wedding, or shared residences and experiences to establish the Petitioner's good-faith marital intentions. Additionally, neither the Petitioner nor J-J- offer any explanation for why, if J-J-'s admission to a sham marriage was indeed falsely obtained through intimidation, he waited over three years to rectify the situation. Consequently, J-J-'s general assertions on motion, that he married the Petitioner for love, resided with her, and intended to share the rest of his life with her, do not overcome the deficiencies noted in our prior decision and are insufficient to demonstrate the

¹ Name is withheld to protect the individual's identity.

² The Petitioner indicates, and the record confirms, that the "withdrawal" referenced is a letter in the record signed by J-J-, dated [REDACTED] 2012, in which he admitted to having been paid to marry the Petitioner and in which he withdrew the Form I-130, Petition for Alien Relative, that he had filed on her behalf.

Matter of T-A-I -

Petitioner's good faith marital intentions or her joint residence with J-J-. Accordingly, we reaffirm our prior finding that the preponderance of the relevant evidence did not establish that the Petitioner entered into marriage with J-J- in good faith or resided with him.

IV. CONCLUSION

On motion, the Petitioner has not overcome the grounds for denial, as she has not demonstrated that she entered into marriage with her U.S. citizen spouse in good faith and resided with him. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In these proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of T-A-I*, ID# 16242 (AAO Apr. 6, 2016)