



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

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

MATTER OF S-L-

DATE: APR. 29, 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. The Director concluded that the Petitioner had not established that she entered into her marriage in good faith, and that she jointly resided with her spouse. The Petitioner timely filed an appeal which we dismissed.

The matter is before us on a motion to reopen and to reconsider. On motion, the Petitioner submits a brief and additional evidence. The Petitioner claims that she submitted sufficient credible evidence to establish that she resided with her spouse and that she entered into her marriage in good faith.

Upon review, we will deny the motions.

I. APPLICABLE LAW

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, a citizen of Serbia, who entered the United States as a B-2 nonimmigrant visitor. She married P-L-¹ a U.S. citizen, and they are now divorced. The Petitioner filed the instant Form

¹ Name withheld to protect the individual's identity.

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I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The Director denied the Form I-360 finding that the Petitioner had not established that she entered into the marriage with her U.S. citizen spouse in good faith and that she jointly resided with him. We dismissed a subsequent appeal and the matter is before us on motions to reopen and reconsider.

III. ANALYSIS

A full review of the record does not establish the Petitioner's eligibility. The motions to reopen and reconsider will be denied for the following reasons.

A. Joint Residence

In our decision below, we determined that the relevant evidence in the record did not provide sufficient, probative information to establish joint residence. In making this determination, we concluded that although the Petitioner had submitted some documents which indicated that she and P-L- received mail at the [REDACTED] and [REDACTED] residences, the Petitioner only generally referenced these claimed residences in her statements. In addition, the Petitioner's statements did not provide a probative description of these residences or any other claimed marital residences, nor did she provide information about their shared belongings, and residential routines. Similarly, the statements from the Petitioner's friends did not contain detailed, substantive information demonstrating that she and P-L- resided together during their marriage. Our prior decision is incorporated here.

On motion, the Petitioner contends that the evidence of record is sufficient to establish her joint residence with P-L- and she submits a brief, a supplemental statement, supplemental statements from her friends, joint income tax returns for 2013, and previously submitted tax returns for the six previous years. In her personal statement, the Petitioner states that she resided with P-L- from [REDACTED] 2005 to [REDACTED] 2005 on [REDACTED] Illinois. She describes the apartment as small and provides a general description of the apartment and its furnishings. The Petitioner also states that in [REDACTED] 2005, she and P-L- moved in with her in laws in a two bedroom apartment located at [REDACTED] in [REDACTED] Illinois, where they remained until [REDACTED] 2006. She provides no description of this residence. She further states that in [REDACTED] 2006, she and P-L- resided in an apartment located at [REDACTED] Illinois. The Petitioner indicates that due to marital conflicts between October 2007 and July 2010, she moved back and forth between her friend's place and the marital home. Lastly, she states that in July 2010, she moved in with a friend at a [REDACTED] Illinois.

In her supplemental statement on motion, the Petitioner states that as a result of frequent moves and little money, she and P-L- did not own a great deal of property between them. She states that they often moved with just their suitcases and clothes. The Petitioner generally describes her daily routines, stating that her day begins early; she takes a shower, eats breakfast; and goes to work. The Petitioner asserts that her spouse did not work during a large part of their marriage, but when he did, his schedule was from seven to five. The Petitioner's description of her routine in the claimed joint residence is general and vague and provides very little probative details about her shared

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residence and experiences with P-L-. Consequently, the Petitioner's supplemental statement still does not provide substantive information regarding the periods of joint residence that she claims with P-L-, including detailed description of their homes and shared experiences during their joint residence.

Similarly, the statements from Petitioner's friends do not provide any probative details of their interactions with the couple at their residence, or describe the home in any detail. In her supplemental statement on motion, the Petitioner's friend [REDACTED] attests to attending the couple's wedding. She further states that she visited the couple at the [REDACTED] address more than once but does not provide any details of the couple's residence. Similarly in her statement, friend [REDACTED] attests that she sometimes dropped the Petitioner off at her home and would occasionally stop by for a coffee. She attests that she visited the couple more than once at the [REDACTED] address, but provides no details about the couple's residence.

The Petitioner also submits on motion, copies of Form 1040, U.S. Individual Income Tax return for the year 2013, reflecting a filing status of married and filing jointly. However this tax return is not evidence of a shared residence, as there is no evidence that this return was ever filed with the Internal Revenue Service (IRS). Additionally, the address on the 2013 tax return reflects the Petitioner's claimed residence with a friend and not her spouse. In her statement on motion, the Petitioner claims that she moved to the [REDACTED] address with a friend and does not indicate that she also shared this residence with her spouse. Additionally, these returns are several years after the Petitioner's alleged joint residence ended.

Although on motion the Petitioner provides some additional information and documentary evidence regarding the claimed joint residence, the evidence nonetheless does not offer additional facts or information sufficient to overcome our previous determination. Neither the record nor the Petitioner provides a consistent account of the couple's alleged joint residence and as such, the Petitioner has not established that she jointly resided with P-L- during the marriage as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

B. Good Faith Marriage

In our prior decision, we determined that the record did not contain sufficient credible and probative information to establish the Petitioner's good-faith entry into the marriage. We also determined that the statements from the Petitioner's friends likewise lacked substantive information regarding the Petitioner's intentions in marriage. In the Petitioner's statements submitted below, she recounted that she met P-L- on her birthday while she was visiting her friend at a restaurant that P-L- frequented. She recalled that at first she did not give him her telephone number, but after seeing him several times at the restaurant, she began to trust him and they exchanged numbers. She recalled that they began to go out and she subsequently fell in love with P-L-. She recounted that four months after they met, she moved into his apartment and approximately one month later they wed. She stated that they held a small wedding reception at a Serbian restaurant, but she did not discuss the wedding in any probative details. The Petitioner did not describe in further detail their courtship, engagement, wedding ceremony,

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shared residence, or any experiences with her spouse apart from the abuse. Our prior decision is incorporated here.

In her statement on motion, the Petitioner provides some additional information about her relationship with P-L- but does not substantively discuss her intentions and marriage. She does not describe in further detail her decision to marry P-L-, their wedding ceremony, and any experiences apart from the abuse. In their supplemental statements submitted on motion, friends [REDACTED] and [REDACTED] attest to having personal interactions with the couple, but likewise, do not discuss the Petitioner's marital home, residential routines or shared experiences with P-L-, apart from the abuse.

In summary, the Petitioner's statements in the record do not demonstrate her entry into her marriage in good faith. The statements of the Petitioner's friends similarly lack substantive information regarding their knowledge of the couple's relationship and the Petitioner's marital intentions. The remaining documentary evidence in the record is insufficient to establish the Petitioner's good-faith marital intentions, particularly in the absence of a probative account from the Petitioner of her relationship with P-L-. Accordingly, the evidence submitted on motion does not establish that the Petitioner entered into marriage with P-L- in good faith as required by section 204(a)(1)(A)(iii)(II)(aa) of the Act.

IV. CONCLUSION

In these proceedings, the Petitioner bears the burden of proof to establish eligibility. 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 S-L-*, ID# 16687 (AAO Apr. 29, 2016)