



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

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

MATTER OF E-A-

DATE: AUG. 19, 2016

APPEAL OF VERMONT SERVICE CENTER 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) section 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 did not demonstrate that she resided with her spouse during their marriage or entered into the marriage with her spouse in good faith.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence, as well as copies of previously-submitted evidence. The Petitioner claims that the evidence submitted establishes that she resided with her spouse and entered into her marriage in good faith.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 204(a)(1)(A)(iii)(I) of the Act provides that an individual who is the spouse of a United States citizen may self-petition for immigrant classification if the individual demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the individual or a child of the individual was battered or subjected to extreme cruelty perpetrated by the individual's spouse. In addition, the individual 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.

The eligibility requirements are explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

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(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.

....

(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 guidelines are further explicated in the regulation at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

(iii) *Residence*. One or more documents may be submitted showing that the self-petitioner and the abuser have resided togetherEmployment records, school records, hospital or medical records, 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.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). A petitioner may submit any evidence for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. PROCEDURAL HISTORY AND EVIDENCE OF RECORD

The Petitioner is a citizen of Ghana, who entered the United States as a B-2 non-immigrant visitor. The Petitioner married V-M-,¹ a U.S. citizen, on [REDACTED] 2011, and they divorced on [REDACTED] 2014. On May 10, 2012, V-M- filed a Form I-130, Petition for Alien Relative (alien relative

¹ Initials are used in this decision in order to protect individuals' identities.

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petition), on behalf of the Petitioner. This alien relative petition was denied by U.S. Citizenship and Immigration Services (USCIS) on December 17, 2014, following an interview and investigation, based on a finding that V-M- and the Petitioner divorced after V-M- filed the alien relative petition. The Petitioner then filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), on January 8, 2015, which, following the issuance of a request for evidence (RFE) and a response by the Petitioner to the RFE, was denied by the Director. The Petitioner timely appealed. We have reviewed all of the evidence in the record of proceedings.

III. ANALYSIS

A. Joint Residence

The relevant evidence submitted below does not demonstrate that the Petitioner resided with her spouse and the evidence the Petitioner submits on appeal does not overcome this ground for denial.

In her VAWA petition, the Petitioner indicates that she resided with V-M- from June 2011 until February 2014. In order to establish that she shared a residence with V-M-, the Petitioner submits on appeal a personal statement; an updated statement from C-D-; an email from the Petitioner to V-M-; a lease executed on June 16, 2015; a letter from [REDACTED] copies of previously-submitted evidence; as well as a document captioned "Running Narrative Document," which was separately submitted following the submission of the brief and the above-referenced evidence. With her VAWA petition and in response to the RFE, the Petitioner submitted the following evidence as proof that she shared a residence with V-M- during their marriage: statements from several individuals; a police report related to an incident on [REDACTED] 2014; a lease executed on October 5, 2011, and rent payment receipts; an additional email from her to V-M-; correspondence addressed to her and V-M-; a tax return and tax transcript for 2013; and bank account statements.

In her personal statement, the Petitioner indicates that, prior to their marriage, she and her daughter moved into a house that V-M- shared with his mother, and they lived with his mother "for a while" after their wedding. She recalls that she and V-M- then rented an apartment in October 2011 in [REDACTED] Connecticut. The Petitioner mentions that a friend, A-A-, came to visit them at their apartment shortly after they moved in and A-A- provided her with money in 2013 to pay the rent for the apartment. She also states that V-M- began staying away from their apartment for weeks at a time but she does not specify when or how often this occurred. She also relates that F-O-, her former spouse, to whom she was married before she married V-M- and who is the father of her daughter, moved into their apartment, in order to care for their daughter while the Petitioner was at work, although she does not state when that occurred. The Petitioner indicates that she moved to a two-bedroom apartment at some point, and that F-O- used one bedroom and she and her daughter used the other. The Petitioner provides a chronology of the residences where she claims she and V-M- lived but she does not, however, describe the residences she shared with V-M- in any meaningful way, or their life together in their claimed joint residences.

The Petitioner submits statements from several individuals in support of her VAWA petition but, as explained below, these statements do not establish that the Petitioner jointly resided with V-M-. In

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his initial statement, C-D- does not mention the living arrangements of the Petitioner and V-M-, other than when he states that, while the Petitioner was still married to V-M- and shortly after V-M- had left the apartment, he went over to “her house.” In his second statement, which the Petitioner submits on appeal, C-D- recalls that he visited the Petitioner and V-M- both when they lived with V-M-’s mother and when they had their own apartment. He also indicates that he met F-O- and he “understood he was sleeping on the couch in their apartment.” In his statement, A-A- confirms that he visited the Petitioner and V-M- in November 2011 and again in 2013, V-M- was not present during his second visit, and he gave the Petitioner money to pay the rent for the apartment. M-K- states that he visited the Petitioner at the apartment she shared with V-M- but V-M- left the apartment whenever he visited. M-K- also relates that he stayed with the Petitioner for five days at her new apartment in 2015, which was after she and V-M- divorced, and he met F-O- but F-O- was not living there at that time. Accordingly, C-D-, A-A-, and M-K- do not provide any probative details of their interactions with the couple at their residences, or describe their residences in any detail. In their statements, G-A-, D-M-, Y-M-, and S-G- do not discuss the couple’s claimed joint residence.

Based on the following concerns with each piece of documentary evidence listed above, this evidence also does not establish that the Petitioner resided with V-M-. The lease executed on June 16, 2015, only lists the Petitioner as a tenant and is for a period after the Petitioner and V-M- divorced. The email the Petitioner submits on appeal, the letter from [REDACTED] and the Running Narrative Document do not provide any information relevant to whether the Petitioner and V-M- jointly resided during their marriage. The email submitted with the VAWA petition is apparently from the Petitioner to V-M- and directs V-M- not to come to “the apartment” and to remove his belongings and his name from the lease. This email, however, offers little probative information regarding whether the couple jointly resided. The police report identifies the Petitioner and V-M-, indicates that the incident occurred at the claimed joint residence, lists the address of the claimed joint residence for the Petitioner, but records “unknown” as the address for V-M-.

The lease executed on October 5, 2011, and the rent payment receipts addressed to the Petitioner and V-M- indicate that the couple signed a lease together and that rent was paid but, absent other information, do not, on their own, indicate that the couple jointly resided during their marriage, as the signature of V-M- on this lease and the alien relative petition do not appear to match. The correspondence addressed jointly and separately to the Petitioner and V-M- and the tax return and tax transcript only reflect that the couple received mail at and filed taxes listing their address as the claimed joint residence. The bank account statements also do not independently establish the couple’s joint residence, as they indicate very low balances and no payments for any expenses related to their claimed joint residence.

In addition, as noted by the Director, during a visit to their claimed joint residence by USCIS officers on April 29, 2013, pursuant to an investigation related to the alien relative petition filed by V-M-, the building supervisor and a neighbor indicated that, based on photographs of V-M- and F-O- presented by the officers, F-O- resided at the residence, and not V-M-. The neighbor indicated that F-O- had lived at the residence for several years. In her brief on appeal, the Petitioner contends that, by April 2013, F-O- was staying at the apartment while the Petitioner was at work and V-M-

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was frequently absent, although she also reports on her VAWA petition that she and V-M- jointly resided until February 2014. The Petitioner does not address the neighbor's claim that F-O- had been living at the residence for several years prior to April 2013.

The Petitioner's personal statement and the statements of other individuals the Petitioner submits do not provide sufficient detailed information regarding the couple's joint residence, or their life together in their claimed joint residence. In addition, the documentary evidence submitted by the Petitioner is not sufficient to establish that the Petitioner and V-M- jointly resided, and the Petitioner does not sufficiently rebut the information gained by USCIS during their visit to their claimed joint residence. Accordingly, the record does not establish by a preponderance of the evidence that the Petitioner resided with V-M- after their marriage as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

B. Entry into the Marriage in Good Faith

The relevant evidence submitted below and on appeal does not demonstrate the Petitioner's entry into her marriage with V-M- in good faith.

In her personal statement, the Petitioner briefly explains that she was invited to attend a picnic by C-D- and she met V-M- at this picnic in March 2011. She recalls that their first date was to a restaurant with C-D- and that this was "the beginning of [her] romance with [V-M-]." She states that V-M- was really nice to her and was good to her daughter, she and her daughter moved into his mother's house prior to their marriage, and they were married at his mother's house. The Petitioner does not provide further probative details regarding her relationship with V-M-, their courtship, wedding ceremony, shared residences and experiences, to establish that she entered into the marriage with him in good faith. In addition, we note that, while the Petitioner states that she and V-M- married at his mother's house, which is located in [REDACTED] the marriage certificate indicates that they were married by a justice of the peace in [REDACTED]

In his first statement, C-D- confirms that he was a friend of V-M-, the Petitioner and V-M- first met at a party in a park in March 2011, he then saw them dating, and he attended their wedding. In his second statement, C-D- reiterates how the Petitioner and V-M- met and states that he accompanied them on their first date. He also relates that the Petitioner and her daughter moved in with V-M- at V-M-'s mother's house prior to their wedding and he attended their wedding, although he does not indicate the location of the wedding. G-A- states that she met V-M- and the Petitioner on several occasions, and A-A- reports that when he visited the couple in November 2011, they "seemed very happy together," and their home environment was "very comfortable and relaxed with the happiness within showing outward." Y-M- recounts that the Petitioner told her in early-2011 that she met V-M- and they were going to marry. In his statement, D-M- does not describe any knowledge of the Petitioner's good-faith marital intentions. Accordingly, the statements submitted by the Petitioner are not sufficient to establish the Petitioner's good faith intentions in marrying V-M- because they do not describe the Petitioner's marital intentions or provide any detailed information regarding the couple's courtship, wedding ceremony, shared residences, and experiences.

The record contains the same documentary evidence referred to above with respect to joint residence and, for the reasons previously cited, this evidence is similarly insufficient to establish that the Petitioner entered into her marriage with V-M- in good faith, particularly in the absence of a probative account from the Petitioner of her relationship with V-M-. We note, in particular, that the bank statements reflect that the Petitioner and V-M- had joint checking accounts but indicate very low balances and the absence of a record of payments related to marital expenses, and the 2013 tax return and tax transcript only relate to one year of their three-year marriage. The remaining documentary evidence in the record does not relate to whether the Petitioner entered into marriage with V-M- in good faith.

The Petitioner's personal statement, the statements from other individuals, and the documentary evidence in the record do not provide sufficient details regarding the couple's courtship, wedding ceremony, shared residence, or shared experiences to demonstrate the Petitioner's marital intentions. Accordingly, the record does not establish by a preponderance of the evidence that the Petitioner entered into her marriage with V-M- in good faith as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

IV. CONCLUSION

In visa petition 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 appeal is dismissed.

Cite as *Matter of E-A-*, ID# 17962 (AAO Aug. 19, 2016)