



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

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

MATTER OF V-O-

DATE: FEB. 9, 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) § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director, Vermont Service Center, 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 U.S. citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the U.S. 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.

....

- (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.
- (ii) *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, . . . 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 account; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. Other types of readily available evidence might include . . . police, medical, or court documents providing information about the relationship; and affidavits of personas with personal knowledge of the relationship. All credible relevant evidence will be considered.

## II. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner, a citizen of Ghana, entered the United States as a B-2 nonimmigrant visitor on February 16, 2003. The record does not reflect that the Petitioner has left the United States since her entry and after the expiration of her nonimmigrant status. The Petitioner married J-J-H,<sup>1</sup> a U.S. citizen, on [REDACTED] 2005, and they were divorced on [REDACTED] 2010. The Petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on November 2, 2011. The Director denied the Form I-360 finding the record insufficient to establish that the Petitioner married J-J-H- in good faith and that she resided with him. The Petitioner filed a timely appeal.

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

### III. ANALYSIS

We review these proceedings on a *de novo* basis.

On appeal, the Petitioner asserts that U.S. Citizenship and Immigration Services (USCIS) erred in its denial because it improperly weighed and disregarded credible and detailed evidence, and when properly considered in the totality, she established her good-faith intent and joint residence by a preponderance of the evidence. The Petitioner also supplemented the record with an *amicus curiae* brief<sup>2</sup> which discusses the legislative history of the Violence Against Women Act and burdens and standards of proof, including the “any credible evidence” standard. The *amicus* brief asserts that USCIS inappropriately required the Petitioner to submit “traditional primary and secondary” forms of evidence, and it should not require victims of domestic violence to produce evidence controlled by the abuser. The brief further asserts that USCIS has an obligation to consider “the totality of the circumstances” when evaluating evidence submitted to corroborate a couple’s good-faith marriage and joint residence and it must explain in its decision why evidence submitted into the record is determined to be insufficient, or otherwise, explain what type of evidence would be sufficient.

The regulation at 8 C.F.R. § 204.2(c)(2) requires USCIS to consider, “[A]ny credible evidence relevant to the petition[.]” but affords USCIS the sole discretion to determine the weight of that evidence. Therefore, an adjudicator needs to reasonably consider all evidence in the record that has probative value, and in so doing, render a decision substantially supported by such evidence. A review of the record indicates that although the Director did not specifically address each piece of evidence and claim made by the Petitioner or on her behalf, the decision is supported by the evidence in the record and demonstrates that reasoned consideration was given to that evidence.

The Director’s June 3, 2014, request for evidence (RFE) summarized the Petitioner’s statements and those submitted on her behalf and discussed additional evidence that she submitted into the record, including a residential lease, bank account and billing statements, and photographs. The Director’s RFE acknowledged that the Petitioner’s documentation was relevant to her claims that she had a good-faith marriage to J-J-H- and resided with him, but also discussed the discrepancies between the evidence submitted by the Petitioner and USCIS’ records and an independent investigation concerning her good-faith intent and residency with J-J-H-.

The Director’s decision contained a similar discussion, including references to the Petitioner’s statements and statements from the Petitioner’s friends. The Director acknowledged that although the Petitioner indicated having lived with J-J-H- at an apartment in ██████████ Virginia, and the Petitioner’s friends attested to having known the Petitioner and J-J-H- as a married couple and as residing together, the descriptions of the relationship and the residence “lacked specific detail” and the Petitioner’s statement was inconsistent with evidence regarding individuals who actually lived at the claimed residence. Accordingly, the Director concluded that there was insufficient evidence demonstrating that the Petitioner entered into the marriage with J-J-H- in good faith and resided with

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<sup>2</sup> We appreciate *amicus curiae*’s submission on behalf of the Petitioner and their perspective on this matter.

(b)(6)

*Matter of V-O-*

him. Our review does not support a finding that the Director required the submission of “traditional” forms of evidence, ignored or mischaracterized the Petitioner’s evidence, or applied an erroneous standard of review.

The Petitioner must provide sufficient evidence, demonstrating that she married her spouse in good-faith and resided with him. *See* 8 C.F.R. § 204.2(c)(2). Although USCIS must consider all credible evidence relevant to a petitioner’s entry into the marriage in good faith, the agency is not obligated to determine that all such evidence is credible or otherwise sufficient to meet the Petitioner’s burden of proof. *See* section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i). Although the Petitioner and the *amicus* brief focus on the number of documents submitted, the determination regarding the sufficiency of the evidence is determined not by the quantity of evidence alone but by its quality. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). 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.

#### A. Good-Faith Entry into Marriage

In her declaration dated October 25, 2011, the Petitioner indicated that around June 2003, she met J-J-H- while she was shopping, and upon carrying her items to the car, he asked for her telephone number. The Petitioner generally stated that over the next few weeks they went to buffet restaurants, visited their friends, and went to the [REDACTED] Virginia waterfront, but did not provide specific details regarding any particular occasion spent together during this time. As their relationship progressed, the Petitioner indicated that she cooked J-J-H- traditional [REDACTED] meals and they watched movies and television together, even though she, “[D]idn’t understand much of what was being said in English . . . .” The Petitioner made several additional references to her difficulty speaking and understanding English, stating that during her interview before a USCIS officer, “Without a translator [she] had a very hard time understanding the questions [that] were asked or [J-J-H-’s] answers.” She also indicated because of her, “[L]ack of proficiency in English [it was] very difficult for [her] to communicate . . . by telephone.” Despite her acknowledged difficulty with speaking and understanding English, the Petitioner did not discuss any impact or barriers in communication during her relationship with J-J-H- other than to indicate they attempted to help one another with their respective native languages, English and Twi.

The Petitioner generally stated that J-J-H- asked her to marry him on an unspecified date when they were at a restaurant. Other than stating that she never thought she would find love again after her first marriage, the Petitioner did not provide a detailed account of her feelings for J-J-H- and her intention in marrying him, and she provided no further probative evidence of their interactions and shared occasions during what appears to have been a two-year courtship.

The Petitioner stated that she and J-J-H- were married at the courthouse in [REDACTED], Virginia, on [REDACTED] 2005, and J-J-H- bought her a “beautiful wedding ring.” The Petitioner also generally stated that her friend and J-J-H-’s sister attended the wedding ceremony, which they celebrated with a dinner afterwards, and one week later, they celebrated at J-J-H-’s sister’s house with family and friends. Although the Petitioner stated she, “[F]elt so lucky that [J-J-H-] wanted to be with [her] and

(b)(6)

*Matter of V-O-*

[she] wanted to do everything [she] could to make him happy,” the Petitioner did not provide further details of their wedding ceremony and celebrations.

After their marriage, the Petitioner stated they “shared an apartment and signed a lease together” for a two-bedroom apartment they shared with their friend, [REDACTED], in [REDACTED] Virginia. The Petitioner also stated that J-J-H- often went to church with her. However, the Petitioner did not provide any further description of the shared residence and any shared occasions and married life and routines, other than as it related to the abuse.

In her second personal statement dated August 27, 2014, the Petitioner indicated that upon arriving in the United States in 2003, she moved to an apartment complex located in [REDACTED], Virginia, where she shared a bedroom with her friend while [REDACTED] lived in the master bedroom. The Petitioner also indicated that while she was dating J-J-H-, he lived in [REDACTED], but they arranged with [REDACTED] to live in her bedroom and to pay a portion of the rent when her friend moved out. The Petitioner explained that although they did not sign a lease with the apartment complex’s rental office, she and J-J-H- signed a document with [REDACTED] formalizing their living arrangements at the [REDACTED] address. The Petitioner recounted, “Shortly after [their] wedding, [J-J-H-] moved into the apartment . . . [they] were very excited to be living together.” The Petitioner also generally recounted some of the daily activities with J-J-H-, including watching television, the times she typically returned home from work, and the types of food she prepared for breakfast and dinner. She further recounted that J-J-H- taught her how to drive a car. Although she also generally discussed the layout of the apartment, the Petitioner did not describe any specific shared experience or occasion during their relationship in any detail and provided no further probative evidence of their times spent together as a couple and in the marital residence, other than as it related 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 marriage with J-J-H-. In their statements, several of the Petitioner’s friends, landlord, and church members, some of whom stated they did not know the Petitioner and J-J-H- until after their marriage, generally discussed when they met the Petitioner, indicating that they have known the Petitioner and J-J-H- as a married couple and visited them at their apartment in [REDACTED] Virginia. However, they did not elaborate on specific interactions they observed and provide any other details about the Petitioner’s relationship with J-J-H-, residential routines, and shared occasions, other than as it related to the abuse.

The Petitioner states that because of her abusive relationship with J-J-H-, her access to evidence is limited. Given the difficulties posed by a marriage with domestic violence, the regulations do not require a petitioner to submit documentary evidence. 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). Rather, affidavits or any other type of relevant credible evidence may be submitted. 8 C.F.R. § 204.2(c)(2)(vii). Although the Petitioner submitted copies of tax documents for the 2006, 2008, and 2009 tax years, the documents are accorded minimal weight as they are not signed and the Petitioner has not demonstrated that the documents were actually filed with the Internal Revenue Service. Moreover, the 2006 document is dated July 2007, while the remaining documents are dated July 2011, well after the filing deadline for the respective tax years. In addition, the Petitioner submitted joint bank account and billing statements identifying the [REDACTED] residence; USCIS

(b)(6)

*Matter of V-O-*

correspondence; and photographs of her with J-J-H- during their wedding ceremony and events with his family members as well as the apartment complex. Although the Petitioner has submitted some joint documentation and evidence listing the Petitioner and J-J-H- at the same address, and explained that she does not have additional evidence because of the control exerted by J-J-H-, she has not provided sufficient probative and detailed information about her marital intentions and relationship to establish her good-faith intent. The Petitioner's statements and those submitted on her behalf do not provide a probative account and specific descriptions of their courtship, wedding ceremony, shared residence, routines, and experiences, apart from the abuse. When viewed in the aggregate, the relevant evidence does not establish by a preponderance of the evidence that the Petitioner entered into marriage with J-J-H- in good faith as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

#### B. Joint Residence

As discussed above, although the Petitioner has generally indicated that she resided with J-J-H- at an apartment complex in Virginia, she did not describe their residence, such as shared belongings and residential routines, and did not provide probative details of any specific shared occasion or experiences in the marital residence during the four-year period she claimed they resided together, other than as it related to the abuse. Similarly, although the Petitioner's friends and church members generally indicated that they visited the Petitioner and J-J-H- at their apartment, the statements did not reference specific dates and none of the declarations provided further probative details about their marital routines and joint residence, other than as it related to the abuse.

In addition, the Petitioner has submitted information that is inconsistent regarding the claimed joint residence. In her declarations, the Petitioner specifically indicated that she and J-J-H- did not begin living together until after their marriage in [REDACTED] 2005. Similarly, the Residential Lease and a letter from [REDACTED], indicated that the Petitioner and J-J-H- began subletting the room in July 2005. In contrast, the Petitioner indicated on her Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, that she began residing with J-J-H- in April 2005, two months prior to their wedding. Further, the Marriage Register issued on [REDACTED] 2005, indicated that the Petitioner and J-J-H- were already residing together at the [REDACTED] address.

The Petitioner also has provided inconsistent evidence regarding the date that she last resided with J-J-H-. On the Form I-360, the Petitioner indicated they last resided together in September 2009 and according to the "Findings of Fact" for their divorce petition, the Petitioner and J-J-H- separated on [REDACTED], 2009. In her 2014 statement, however, the Petitioner stated, "After our marriage fell apart in 2010, [J-J-H-] moved out of the apartment."

Although the Petitioner has submitted some bank and utility information, a lease, and a letter identifying the Petitioner and J-J-H- at the [REDACTED] Virginia address, the Petitioner's own statements and those submitted on her behalf do not provide a probative account of their shared residences and belongings, routines, and experiences, apart from the abuse. In addition, the Petitioner has provided inconsistent claims regarding the dates of her residence with J-J-H-. Although these inconsistencies do not necessarily require us to find the Petitioner lacks credibility, it remains that the record consists of conflicting information, coupled with general assertions and

*Matter of V-O-*

vague descriptions of the claimed joint residence. When viewed in the aggregate, the relevant evidence does not establish by a preponderance of the evidence that the Petitioner resided with her spouse as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

#### IV. CONCLUSION

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). On appeal, the Petitioner has not met this burden.

**ORDER:** The appeal is dismissed.

Cite as *Matter of V-O-*, ID# 11884 (AAO Feb. 9, 2016)