



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

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

MATTER OF M-A-A-C-

DATE: JULY 27, 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 Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). The Director concluded that the Petitioner submitted insufficient evidence to establish that she entered into marriage with her U.S. citizen spouse in good faith.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner claims that although she resided with her spouse she does not have evidence such as bills or joint account statements because her husband had poor credit.

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

**I. APPLICABLE LAW**

Section 204(a)(1)(A)(iii)(I) of the Act provides that an alien who is the spouse of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States 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).

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

- (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

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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:

(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. ANALYSIS

The Petitioner married J-C-<sup>1</sup> on [REDACTED] 2014, in [REDACTED] New York and filed the VAWA petition on May 12, 2015. On the VAWA petition, the Petitioner indicated that she resided with J-C- from September 2014 to February 1, 2015. In her first statement, the Petitioner indicated that at first their relationship was good and that they made many plans and had many goals, but that everything changed when her spouse became violent. The Petitioner did not describe their shared plans or goals, and the remainder of her statement focused primarily on J-C-'s abuse toward her.

The Petitioner provided letters from her family and friends, all of whom generally attested that the Petitioner resided with J-C- and that he was abusive to the Petitioner; however, the statements did not, for example, include a description of the Petitioner's shared marital interactions with J-C- before or after her marriage or provide insights into their relationship that would establish that the Petitioner entered into marriage with J-C- in good faith. For example, [REDACTED] stated that the Petitioner and J-C- shared "a true married [sic]" but that she began to notice things about J-C-'s treatment of the Petitioner that she did not like. The remainder of her statement describes an abusive situation that she witnessed but [REDACTED] did not include a description of any other interactions she witnessed between the Petitioner and J-C- either before or after the marriage. The Petitioner's father indicated that J-C- "presented with gold the requirements" he wished for the Petitioner to have in a spouse, that the wedding day was a very special day, and that the couple looked very much in love. However, the Petitioner's father did not describe the wedding ceremony, the Petitioner's

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

interactions with J-C- either before, during, or after the ceremony, or provide additional insight into the marital relationship that would establish the Petitioner's good-faith entry into the marriage. The Petitioner included evidence that she opened her own checking and savings accounts on January 28, 2015, approximately three days before she and J-C- ceased to reside together. However, J-C- is not listed on the accounts, and there is no evidence that J-C- and the Petitioner used the accounts during their marital relationship.

On appeal, the Petitioner asserts that she and J-C- were unable to open a joint bank account because J-C- "owed too much money in child support." She maintains that although they attempted to rent an apartment when they first married, no one would rent to the Petitioner because she did not have legal status and J-C- told her that his credit was too poor. The Petitioner does not, however, describe, for example, how they met, their courtship and occasions spent together prior to their marriage, their wedding ceremony, or provide any additional information about her intentions toward J-C- at the time she entered into marriage with him. She includes additional affidavits from friends and family. Her brother again generally attests that the Petitioner and J-C- resided with him and that J-C- had financial problems because he was in arrears on child support. The Petitioner's father and sister-in-law also assert that the Petitioner and J-C- resided with the Petitioner's brother and that they witnessed J-C-'s abusive behavior toward the Petitioner; however, they do not describe witnessing other interactions between J-C- and the Petitioner that would provide insight into their shared marital relationship or the Petitioner's intentions when she entered into marriage with J-C-.

Accordingly, the Petitioner has not submitted sufficient evidence that she entered into marriage with J-C- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### III. 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 M-A-A-C-*, ID# 17534 (AAO July 27, 2016)