



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

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

MATTER OF A-R-

DATE: MAR. 30, 2016

**CERTIFICATION 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). 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. The Director concluded that the Petitioner did not establish that he was a victim of abuse by his spouse, a person of good moral character, and that he entered into his marriage in good faith. On appeal, we withdrew the Director's decision and remanded the case for further consideration. After issuance of a notice of intent to deny (NOID) on remand, the Director again denied the Petitioner's Form I-360.

The matter is before us on certification. The Petitioner does not submit any additional evidence.

Upon *de novo* review, we will affirm the Director's denial of the Petitioner's Form I-360.

**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).

Also as described, 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

(b)(6)

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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].

As discussed in our prior decision, which is incorporated here by reference, the eligibility requirements for abused spouses are explained at 8 C.F.R. § 204.2(c)(1), and the evidentiary standard and guidelines for a Form I-360 filed under section 204(a)(1)(A)(iii) of the Act are explained at 8 C.F.R. § 204.2(c)(2).

## II. ANALYSIS

In our prior decision, we discussed the Petitioner's evidence, including his statements and those submitted on his behalf, and concluded that the Petitioner did not provide consistent, probative evidence to establish his eligibility. Regarding his claim that his U.S. citizen spouse, U-R-<sup>1</sup>, subjected him to battery, extreme cruelty, or a pattern of violence or coercion, we acknowledged the Petitioner's general descriptions of U-R-'s behavior such as the claims that she exhibited antisocial behavior, scratched him, coerced him into having "aggressive sex," called him names, and embarrassed him in front of others. However, we found that these statements lacked probative details of specific events, actions, and behavior to establish his claim of abuse. We also discussed how the evidence submitted by the Petitioner about an altercation between him and U-R- which resulted in his plea of "no contest" in violation of section 877.03 of the Florida Statutes and a sentence of probation along with anger management classes, contradicted his claim that U-R- was the aggressor in the altercation. We further concluded that a letter submitted by the Petitioner's licensed therapist did not include a specific diagnosis of the Petitioner's mental health to demonstrate the impact that any behavior by U-R- had on his wellbeing.

Similarly, as it relates to the Petitioner's claim of a good-faith marriage, we concluded that the Petitioner's statements and those submitted on his behalf did not sufficiently establish that the Petitioner married U-R- in good faith. Despite some evidence of joint accounts and the submission of photographs, the record did not contain probative and consistent testimony of their courtship, wedding ceremony, shared residences, and shared experiences. Moreover, the Petitioner presented conflicting evidence regarding their residence together and events and timelines in their marriage.

Regarding the Petitioner's good moral character, we referenced the Petitioner's plea of "no contest" stemming from the incident between him and U-R- in [REDACTED] 2007. Although the Petitioner was required to participate in anger management classes as part of his punishment, the Petitioner did not provide any personal statement addressing any insights he gained, rehabilitation, or acceptance of responsibility since his conviction.

In the NOID issued subsequent to our remand, the Director summarized the Petitioner's statements and evidence. As it related to the Petitioner's claims regarding abuse, the Director again noted that although the Petitioner's statements and those submitted on his behalf alleged verbal and physical

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

acts by U-R- against the Petitioner, they contained material discrepancies, thereby drawing into question the credibility of the other claims and evidence. The Director also concluded that the Petitioner's violation of the Florida Statutes created a situation of domestic violence, and thereby, the Petitioner did not establish his good moral character. The Director further determined that the record contained insufficient and inconsistent evidence of the Petitioner's good-faith entry into marriage with U-R- and referenced the Petitioner's statements and those submitted on his behalf as well as financial accounts and photographs.

In his response to the NOID, the Petitioner resubmitted photographs of his marriage to U-R- along with copies of police records and his conviction documents. In his personal statement, the Petitioner indicated that after his divorce with U-R-, their automobile insurance was cancelled, and he did not have any bank statements because their accounts were closed. The Petitioner also submitted a statement from his brother, who generally described the Petitioner as "very loving and caring [who] has a helping nature [and is] a very family oriented and honorable person." He further indicated that the Petitioner "is a person with good moral character[.]" and since his conviction in 2007, the Petitioner "has a clean record as he never charged or convicted for anything [*sic*]." He does not, however, specifically address the Petitioner's rehabilitation or behavior and actions taken since his arrest and conviction.

Although the Petitioner argues in his response to the NOID that his access to additional evidence is limited because of his divorce from U-R-, traditional forms of joint documentation are not required to demonstrate a petitioner's eligibility as an abused spouse. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). U.S. Citizenship and Immigration Services will consider "any credible evidence relevant to the petition." 8 C.F.R. § 204.2(c)(2)(i). The Petitioner's evidence, his statements, and the statements submitted on his behalf, do not consistently and probatively establish his claims. When viewed in the aggregate, the relevant evidence does not establish by a preponderance of the evidence that U-R- subjected the Petitioner to battery or extreme cruelty, that he is a person of good moral character, and that he entered into marriage with U-R- in good faith as required by sections 204(a)(1)(A)(iii)(I)(aa), 204(a)(1)(A)(iii)(I)(bb), and 204(a)(1)(A)(iii)(II)(bb) of the Act.

### III. CONCLUSION

In these proceedings, the Petitioner bears the burden of proof to establish his 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 initial decision of the Director, Vermont Service Center is affirmed, and the petition is denied.

Cite as *Matter of A-R-*, ID# 16078 (AAO Mar. 30, 2016)