



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

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

MATTER OF G-A-

DATE: MAY 11, 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, revoked approval of the petition. The Director concluded that the Petitioner had not established that he was eligible for immediate relative classification based on his relationship with his former spouse, as required by section 201(b)(2)(A)(i) of the Act.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner claims that he has established, through documentary evidence, that he is eligible for the benefit sought.

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

**I. APPLICABLE LAW**

Section 205 of the Act, 8 U.S.C. § 1155, states the following:

The Secretary of Homeland Security may, at any time, for what [she] deems to be good and sufficient cause, revoke the approval of any petition approved by [her] under section 204. Such revocation shall be effective as of the date of approval of any such petition.

The regulation at 8 C.F.R. § 205.2(a) states, in pertinent part, the following:

Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 [for automatic revocation] when the necessity for the revocation comes to the attention of [U.S. Citizenship and Immigration Services].

Section 204(a)(1)(A)(iii) 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).

Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J) states, in pertinent part, the following:

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 further explicated in the regulation 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.

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, the following:

(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.

. . . .

(iii) *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, birth certificates of children . . . , deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

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## II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Nigeria, who last entered the United States on an approved Form I-129F, Petition for Alien Fiancé(e). The Petitioner wed M-I-<sup>1</sup> a U.S. citizen and later filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, which the Director approved. Based on this approval, the Petitioner filed a Form I-485, Application to Register Permanent Residence or Adjust Status, which was subsequently denied. After providing notice to the Petitioner, the Director revoked the approval of the Form I-360. Specifically, the Director determined that the Petitioner had been previously married and that he did not establish that the prior marriage was legally terminated. Consequently, the Director determined that the Petitioner did not demonstrate that she had a qualifying relationship with a U.S. citizen or lawful permanent resident and is eligible for immigrant classification based upon such a relationship. The Petitioner timely filed an appeal.

## III. ANALYSIS

### A. Qualifying Relationship

The Director correctly determined that the record below does not demonstrate that the Petitioner had a qualifying relationship with a U.S. citizen and was eligible for immediate relative classification. A review of the record does not establish that the Petitioner's prior marriage was legally terminated before he married M-I-. On the Petitioner's Form, I-129F, he claimed that he was previously married to F-A-<sup>2</sup> prior to his marriage to M-I-. During a United States Citizenship and Immigration Services (USCIS) interview in regards to his Form I-485, the Petitioner disclosed that he was in fact married prior to F-A- with a woman in the Philippines named E-R-<sup>3</sup> and that he had two children with her. The Petitioner claimed, however, that according to the laws in the Philippines, his marriage to E-R- was automatically terminated after 18 years of separation.

In response to a request for evidence (RFE) of the termination of this marriage to E-R-, the Petitioner submitted a divorce decree from [REDACTED] Nigeria. Although the divorce decree reflected that he was divorced from E-R-, it contradicted the Petitioner's claim that he and E-R- had been separated for 18 years prior to the automatic termination of their marriage. In her notice of intent to revoke (NOIR), the Director further identified the Certificate of Divorce as fraudulent, because it was not filed with the [REDACTED]. As a result of several factual discrepancies noted on the submitted divorce decree, USCIS requested an overseas verification of the document. The Chief Registrar of the [REDACTED] confirmed that the Divorce Degree was fraudulent and that it was never filed with the [REDACTED]. The Director determined that as a result of the inconsistent testimony in the record and false testimony under oath, the Petitioner was inadmissible pursuant to section 212(a)(6)(C)(i) of the act for fraud and misrepresentation.

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

<sup>2</sup> Name withheld to protect the individual's identity.

<sup>3</sup> Name withheld to protect the individual's identity.

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In response to an RFE to overcome the grounds for revocation, the Petitioner submitted a personal affidavit, a news article from [REDACTED] regarding a judicial worker's strike in [REDACTED], Nigeria; a letter from Attorney [REDACTED] and a letter of Certification from the Assistant Chief Registrar (Litigation) of the [REDACTED]. The Director determined that the submitted evidence was insufficient to overcome the grounds of revocation.

In his affidavit, the Petitioner asserted that the verification conducted by USCIS was incorrect and that he was legally divorced from E-R- in [REDACTED] Nigeria. He further asserted that the divorce decree that he submitted was not fraudulent and that a judicial workers' strike in Nigeria hindered his ability to obtain further proof of his divorce. As evidence of his divorce to E-R-, the Petitioner submitted a letter from an attorney in Nigeria, [REDACTED] made three separate assertions regarding the Petitioner's marriage and divorce from E-R-. He first asserted that E-R- had the marriage certificate in her sole possession for 18 to 29 years, thus prohibiting the Petitioner from seeking a divorce in court. Secondly, he asserted that the actual existence of the Petitioner's marriage to E-R- could not be presumed, as there was no proof that the marriage was ever registered; and finally he asserted that the Petitioner's physical separation from E-R- for 18 to 29 years is conclusive proof that the relationship had broken down irretrievably. These various and inconsistent assertions proffered by [REDACTED] diminished the evidentiary value of his assertions.

On appeal, the Petitioner submits a brief and a report from the Philippine Statistics Authority (PSA), Office of the Civil Registrar, reflecting that no records were found of his marriage to E-R-. However, the record contains no information regarding how the PSA verified the information in the report, thereby diminishing its evidentiary value. The Petitioner also submits a copy of pages from the Nigerian and Philippines Foreign Affairs Manual, a copy of the Nigerian Judiciary Changes/Rules, and an Article entitled, [REDACTED]. The Petitioner asserts that the Director erred in finding that his prior marriage to E-R- was not legally terminated and references his prior submission of documents purportedly dissolving his marriage. Notwithstanding these assertions, the Petitioner's attempt to explain the termination of his prior marriage to E-R- by claiming that he was never married to E-R- does not resolve the inconsistencies of the record. As the record contains material inconsistencies with regards to the Petitioner's marital history, the evidentiary value of the Petitioner's testimony is diminished. Accordingly, the record does not contain sufficient evidence to establish that the Petitioner has a qualifying relationship as the spouse of a U.S. citizen or his corresponding eligibility for immediate relative classification based on such a relationship, as required by section 204(a)(1)(A)(iii)(II)(cc) of the Act.

**B. Joint Residence**

Upon further review, we have determined that the Petitioner also did not establish that he resided with M-I-. On his Form I-360, the Petitioner stated that he resided with M-I- from July 2006 until August 2007, and that their last joint residence was on [REDACTED] in [REDACTED] Illinois. The Petitioner submitted personal statements and statements from his friends and family in support of his Form I-360. In his initial affidavit, the Petitioner did not address his joint residence with M-I-, but recounted that when he first arrived from Nigeria, "he was received by M-I- and her family." In

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his second affidavit, the Petitioner did not address or describe his joint residence with M-I- but rather focused on the documentary evidence as it related to his prior marriage.

The record also contains letters from the following friends and family members: [REDACTED] and [REDACTED]. However, these statements are of limited probative value in establishing the couple's joint residence. In their statements, [REDACTED] and [REDACTED] recounted that they went to the Petitioner's residence, but they did not provide the Petitioner's residential address, nor did they provide any other details regarding the claimed joint residence. The remainder of their statements focused on the abuse in the relationship. The statements from friend, [REDACTED] neighbor, [REDACTED] and the Petitioner's uncle, [REDACTED] focused primarily on the claimed abuse, and none of their statements addressed the Petitioner's joint residence with M-I-.

As evidence of his joint residence, the Petitioner also submitted a letter from his landlord, [REDACTED] and a residential lease agreement. In his letter, [REDACTED] attested that the Petitioner resided at the [REDACTED] for over a year and that he was in good standing. The landlord's brief letter did not mention the Petitioner's spouse, nor did it provide any probative details of his interactions with the couple at their residence, or described the home in any detail. The lease was signed only by the Petitioner and the lease period covers the period from June 1, 2007 through May 30, 2008. The Petitioner did not explain or provide any additional lease agreements for the period of July 2006 to August 2007, the period that he claimed to have resided with M-I- at the [REDACTED].

The record also contains a joint 2006 Individual Income Tax return for the fiscal year ending in 2007, which reflected the couple's [REDACTED]. However, M-I-'s accompanying W-2 listed her address as being on [REDACTED]. In his statements, the Petitioner made no mention of ever residing on [REDACTED]. Additionally, the record contains M-I-'s [REDACTED] account statement, which reflects the [REDACTED] address. This is inconsistent with M-I-'s [REDACTED] earning statement, which also reflected that M-I- resided at a [REDACTED] address.

On appeal, the Petitioner does not address joint residence with M-I-, nor does he provide any additional documents to establish joint residence. Traditional forms of joint documentation are not required to demonstrate a self-Petitioner's joint residence. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). Rather, a self-petitioner may submit "affidavits of persons with personal knowledge of the relationship or any other type of relevant credible evidence of residency." *See* 8 C.F.R. § 204.2(c)(2)(iii). Here, however, the Petitioner's statements and the letters from his friends, family and landlord do not provide sufficient, substantive information relating to the Petitioner's claim of joint residence with M-I-. The affidavits and letters are of a general nature and provide no probative details to substantiate Petitioner's claim of joint residency or to overcome the deficiencies of the record. Accordingly, the Petitioner has not established by a preponderance of the evidence that he resided with his spouse after their marriage as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

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#### 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 appeal is dismissed.

Cite as *Matter of G-A-*, ID# 16522 (AAO May 11, 2016)