



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

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

MATTER OF G-T-

DATE: OCT. 12, 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 concluding that the Petitioner had not established she entered into the marriage in good faith and that she resided with her spouse. The matter is now before us on appeal. On appeal, the Petitioner submits.

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

I. 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.

....

(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, the following:

(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.

....

(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.

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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 Burkina Faso, who last entered the United States in September 2005, with an F-1 nonimmigrant visa. She married M-B-¹ a U.S. citizen, and later filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, (VAWA petition), which was approved. Based on this approval, the Petitioner filed a Form I-485, Application to Register Permanent Residence or Adjust Status (adjustment application), which was subsequently denied. The Director subsequently issued a Notice of Intent to Revoke (NOIR), notifying the Petitioner that the evidence did not establish that she entered into marriage with her U.S. citizen spouse in good faith and that she resided with him during their marriage. The Director subsequently revoked the approval of the VAWA petition and the Petitioner timely appealed.

III. ANALYSIS

A. Joint Residence

The relevant evidence submitted below does not demonstrate that the Petitioner resided with her spouse and the Petitioner does not submit sufficient evidence on appeal to overcome this ground for denial. The Petitioner submitted below the following documentary evidence: personal affidavits, a statement from her sister-in-law, A-F-, three rent receipts, renter's insurance application from the [REDACTED] and print-outs of a [REDACTED] search on her recent addresses.

The Petitioner's VAWA petition reflects that she resided with M-B- from March 2007 until June 2007. However, the information on the VAWA petition contradicts the Petitioner's previous sworn testimony to USCIS in conjunction with her (adjustment application). In her adjustment application, the Petitioner she indicated that she met M-B- towards the end of 2006 during the Christmas season, that she dated M-B- for about five to six months before they were married, and that they moved in together in [REDACTED] 2007. Her sworn statement also contradicts records in the file from the [REDACTED] which reflects that M-B- was incarcerated from [REDACTED] 2006 until [REDACTED] 2007, during the period that the Petitioner claimed to have met, dated, and resided with him. In her affidavit the Petitioner did not explain these inconsistencies, nor did she provide sufficient details regarding her claimed joint residence with M-B- in any probative details. Additionally, the information provided on the Petitioner's VAWA petition is inconsistent with her personal affidavits, in which she claimed that she began residing with M-B- in April 2007 not March 2007. The Petitioner also did not provide probative testimony establishing

¹ Initials are used in this decision to protect the identities of the individuals.

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that she jointly resided with M-B-. Specifically, she did not describe their home furnishings, their neighbors, any jointly-owned belongings, and their daily routines within the residence.

The Petitioner also submitted a statement from her sister-in-law, A-F-. In her statement, A-F- indicated that she introduced her brother, M-B-, to the Petitioner in March 2007. She added that at her invitation, the Petitioner moved into her basement apartment. She recalled that when the Petitioner and her brother became close, M-B- moved in with the Petitioner in her basement. A-F- indicated that her brother and the Petitioner resided with her from April 2007 until June 2007, and that she charged them \$500.00 in rent, as reflected in the receipts that she provided to the couple. A-F-'s statement contradicts the Petitioner's affidavit submitted in response to the NOIR, in which she claimed that M-B- began renting A-F-'s basement apartment in March and that they moved in together in April 2007. In her statement, A-F- did not further provide any probative details of her interactions with the couple at their residence, nor did she describe their home in any detail.

The [REDACTED] print-outs provided by the Petitioner revealed that during the period of January 2009 until June 2015, the Petitioner was listed as a potential relative of M-B-, residing at the [REDACTED] in Illinois. However, the [REDACTED] printout contradicts the Petitioner's own statement in which she indicated that she last resided at the [REDACTED] address with M-B- in June of 2007, years before the dates on the [REDACTED] records. Because of these discrepancies, the [REDACTED] records are of limited probative value in establishing the couple's joint residence. Additionally, the application for renter's insurance reflects the [REDACTED] address and it contains both the Petitioner's and M-B-'s names. However, the insurance application bears only the signature of the insurance agent. In addition, the receipt for the premium payment is dated after the Petitioner's claimed separation from M-B-.

On appeal, the Petitioner does not provide any additional evidence to support her claim of joint residence. She also attributes the inconsistencies in the record to her post-traumatic stress disorder (PTSD). She references medical records relating to an emergency room visit in October 2007 and subsequent outpatient psychiatric treatment records, in which she was diagnosed with PTSD. The Petitioner also submits copies of a [REDACTED] article on PTSD, which states that some of the symptoms of PTSD are memory problems and trouble concentrating. Nonetheless, the medical documents in the record do not provide the necessary detail of the underlying traumas or causative factors to support a conclusion that the Petitioner's diagnosis of PTSD caused her memory problems to the extent that she provided inconsistent and conflicting testimony. In addition, the general background materials on PTSD are not sufficient to establish that the Petitioner was experiencing certain symptoms, nor is it sufficient to establish the degree or severity of the PTSD and its impact on the Petitioner.

The record, including the Petitioner's statements, does not contain consistent testimony regarding when, where, and for how long the Petitioner allegedly resided with A-F- during her marriage to M-B-. Similarly, the letter from A-F- was inconsistent with the Petitioner's previous testimony and it did not provide sufficient probative details to substantiate the Petitioner's claim of joint residency. Further, even without consideration of the inconsistencies in the record, the Petitioner has not provided sufficient probative and detailed information to support her claim of joint residence. Our

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review of the record in the aggregate indicates that the Director properly determined that the Petitioner has not established, by a preponderance of the evidence, that she resided with M-B- as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

B. Good-Faith Entry into the Marriage

The relevant evidence submitted below and on appeal does not demonstrate the Petitioner's entry into her marriage with M-B- in good faith. The record contains the following documents: the Petitioner's personal affidavits, copy of her marriage certificate, rent receipts, letter from the Petitioner's sister-in-law, A-F-, a copy of M-B-'s [REDACTED]

In the Petitioner's affidavit submitted below, she recounted that she met M-B- in early 2007 at the hair salon, where she worked. She recalled that M-B- came to the shop to see his sister, A-F-, who was her client at the time and that A-F- introduced them. Subsequently, during her visits to A-F-'s home, she became better acquainted with M-B-. They began dating and they fell in love. She recalled that M-B- told her that he loved her, wanted to marry her, and have a child with her. In [REDACTED] 2007, they were married at City Hall.

The Petitioner's affidavit in regards to the time period that she met M-B- is inconsistent with a previous sworn statement that she provided to USCIS in conjunction with an adjustment application, in which she states that she met M-B- in December 2006 and that they married in [REDACTED] 2007. The Petitioner stated that she was sure that she met M-B- in December of 2006 because it was during the Christmas season. In the sworn statement, the Petitioner also claimed that M-B- went to her house for the first time in February 2007 and that during the same month, he took her to meet his mother. Additionally, the Petitioner recounted that M-B- took her to a restaurant for Valentine's Day in February 2007. However, [REDACTED] records indicate that M-B- was incarcerated from [REDACTED] 2006, until [REDACTED] 2007.

In the Petitioner's statement in response to the NOIR, the Petitioner recounted that she met M-B- for the first time in March 2007. She stated that they dated for a few months and that they moved in together in April 2007 on [REDACTED] in Illinois. In the remainder of her statement, the Petitioner explained what transpired during her two USCIS interviews and the deficiencies in her documentary evidence. The Petitioner reasserted that she entered into the marriage in good faith and thought that she could have a partner for life, but she did not further discuss her good faith entry into the marriage in any substantial detail.

In a subsequent statement, the Petitioner recounted that she met M-B- through his sister, A-F-. She recalled that she often spoke to A-F- and found her to be a nice person. She recounted that after speaking with A-F- about her housing problems; A-F- invited her to live rent free in her basement. The Petitioner recalled that during this time, her relationship with M-B- was developing and that they later wed. She recalled that A-F- and her daughter attended their nuptials at city hall and A-F- took pictures of the marriage ceremony. The Petitioner stated that A-F- refused to give the pictures to the Petitioner once she knew that the Petitioner and M-B- were having marital problems. The Petitioner did not further describe in probative detail her relationship with M-B- apart from the abuse. The Petitioner did

not, for example, discuss in probative detail her courtship, engagement, wedding, or any of their shared experiences.

In her letter, A-F- recounted that she introduced her brother to the Petitioner in late March 2007. She subsequently learned that the Petitioner was looking for a place to stay and she offered to the Petitioner to live in her basement. She recalled that since her brother was a regular visitor, he and the Petitioner became close, started dating, and later moved in together. She noted that by the end of June the Petitioner moved out of her basement because her brother was becoming verbally abusive. In her statement, the Petitioner's sister-in-law does not further address her interactions with the Petitioner and M-B- during the couple's marriage, or her knowledge of the Petitioner's good-faith marital intentions.

The Petitioner also submitted documentary evidence to establish good faith entry into the marriage, including: marriage certificate, rent receipts and photographs. The rent receipts list both the Petitioner and M-B-; however, this evidence, while providing information about the couple's claimed shared residence, does not offer any insight into the Petitioner's intentions in entering into the marriage. Likewise, the marriage certificate shows that the couple entered into a legal marriage, but it is not sufficient to establish good faith marriage. The photographs of the Petitioner with her spouse on one unspecified occasion were not accompanied by any explanation of their significance and therefore are not sufficient to establish good faith marriage.

On appeal, the Petitioner does not address the Director's finding that she did not establish her good faith entry into her marriage to M-B. Instead, the Petitioner asserts that the underlying adjustment application was improperly adjudicated and that the denial ignores evidence in the record, specifically the effects of post-traumatic stress disorder. The Petitioner also reiterates comments that she had previously made in response to the NOIR, regarding the adjudication of the adjustment application and her assertions that the adjudicating office mishandled the adjustment interview.

The Petitioner further explains that that she suffers from memory problems due to PTSD. She references the psychiatric evaluation in which she was diagnosed with PTSD. The Petitioner asserts that her confusion in her declaration regarding when she met M-B-, how long they dated, and when they were married is attributable to her diagnosis of PTSD. The Petitioner also references the documentary evidence submitted below and asserts that this evidence is sufficient to overcome any reliability issues regarding her testimony and is evidence that she entered into the marriage in good faith. Upon review of the record, the Petitioner has not provided probative, consistent testimony describing when she met M-B-, their courtship, wedding ceremony, shared residences and experiences. We acknowledge the Petitioner's contention that her memory is faulty regarding dates and that this is attributed to her PTSD; however, the record does not include the probative detail necessary to obtain insight into the Petitioner's intent when she entered into the marriage. Accordingly, the preponderance of the relevant evidence does not establish that the Petitioner entered into her marriage with M-B- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

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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. section 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of G-T-*, ID# 8209 (AAO Oct. 12, 2016)