



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

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

MATTER OF M-C-S-

DATE: OCT. 17, 2017

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 of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), concluding that the Petitioner did not establish that she entered into her marriage in good faith.

On appeal, the Petitioner submits additional evidence and asserts that the Director misapplied the credible evidence standard and overlooked substantial evidence.

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

I. LAW

A petitioner who is the spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the petitioner or his or her child was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act. In addition, a petitioner 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.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

The issue on appeal is whether the Petitioner entered into her marriage with M-B- in good faith.<sup>1</sup> The Petitioner married M-B- in ██████████ 2013 and filed her VAWA petition in August 2015. The relevant evidence in the record includes: declarations from herself, her mother, and friends; photographs of the Petitioner and M-B- together; bank account statements; utility bills; her 401K plan registration; and employment emergency contact form. The Director determined that the evidence was insufficient to establish her good faith marital intentions. The Director found specifically that: the photographs showed that the Petitioner and M-B- spent time together but did not show a historical progression of their relationship; the Petitioner held an auto insurance policy with a person other than M-B- and listing another address; evidence of joint residence was insufficient to establish good faith marital intentions because of inconsistencies; the income tax returns were not copies from the Internal Revenue Service (IRS) and thus insufficient; the bank statements from May through September 2015 did not reflect payroll deposits for M-B-; and the utility bills submitted were from December 2014 to August 2015, well after the Petitioner and M-B- married.

On appeal, the Petitioner submits a brief and additional evidence including IRS tax transcripts and documents from M-B-'s employer. She also resubmits evidence from below including bank statements, utility bills, auto insurance policy forms, and additional affidavits in support of her entry into her marriage in good faith. Upon full review of the evidence in the record, including as supplemented on appeal, we find the Petitioner has established that she entered into marriage with M-B- in good faith.

In her declaration below, the Petitioner described meeting M-B- at a birthday party while visiting the United States in 2012 and that they chatted about families. She described M-B- as tall and handsome and that he was attentive to her so she felt flattered. The Petitioner stated that after meeting they spent time talking on the telephone and sending text messages, that they later met in ██████████ and that she visited M-B- for a July 4 holiday where he showed her the beaches and they stayed with friends. The Petitioner also briefly described their wedding preparation and ceremony. The remainder of the Petitioner's declaration detailed the emotional and physical abuse she experienced from M-B-. In response to the Director's RFE about M-B- not being on the lease for their residence at ██████████ the Petitioner stated that she had been apartment hunting alone, found move-in specials, signed a lease because units were renting quickly, and did not add M-B- because he had bad credit. The Petitioner also explained that because M-B- had poor credit, was already leasing another car for his work, and she had little credit, a car dealership would not offer financing. She stated that a friend, K-H-, signed a lease for her, she submitted a statement from K-H- confirming this.

The Petitioner's mother described having talked to the Petitioner and M-B- on the telephone after their engagement and that she told him to take care of her daughter. A friend of the Petitioner, J-M-,

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<sup>1</sup> We provide the initials of individual names throughout this decision to protect identities.

described meeting the Petitioner and M-B- in December 2013 when they were newlyweds, and that the Petitioner seemed happy but she found M-B- to be rude. J-J- stated that she had visited the Petitioner's home numerous times and saw photos of couple on walls. She further explained that as a manager at the Petitioner's workplace, she saw M-B- come for lunch with the Petitioner. In their affidavits, F-N- and S-N- each stated that they visited the Petitioner and M-B- at their home, saw pictures of them on the walls, and that they seemed affectionate toward each other.

The Petitioner's 401K retirement plan declaration signed in March 2014 identified M-B- as the primary beneficiary and her emergency contact information for her workplace dated in May 2015 also listed M-B-. Submitted bank account statements and utility bills listed the Petitioner and M-B- residing at [REDACTED] the second shared address.

On appeal, the Petitioner maintains that she has submitted a substantial amount of evidence to establish a bona fide marriage, and asserts that she has presented many affidavits from witnesses attesting to the couple's relationship and her entire history of bank accounts, leases, and income tax forms. With the appeal the Petitioner submits additional affidavits from individuals attesting to her good faith marital intentions. The Petitioner submits additional photographs along with previously submitted photographs showing her with M-B- and with friends at gatherings and events, and contends that the photographs show the progression of their relationship before and after marriage from 2012 through 2015.

The Petitioner submits additional bank account statements from [REDACTED] 2013 through August 2015 that list the Petitioner and M-B- at their first address, [REDACTED] and the second address, [REDACTED]. The statements show activity by M-B- from January 2014 and pay deposits from August 2014 through June 2015, listing each of the two addresses where the Petitioner contends they resided. The Petitioner states that M-B- was a driver for [REDACTED] and she submits a 2014 Form 1099-K for M-B- showing his employment by [REDACTED] and a W-2 for M-B-, both listing the address at [REDACTED]. She also submits documentation showing that [REDACTED] is a subsidiary of [REDACTED]. Bank account statements for each address show deposits from [REDACTED]. The Petitioner also submits 2013 IRS tax transcripts showing that she and M-B- filed joint taxes while residing at [REDACTED] and 2014 IRS tax transcripts showing they filed jointly while residing at [REDACTED].

The Petitioner maintains that the Director's reference to an inconsistency in the evidence regarding when she began living with M-B- at [REDACTED] is incorrect. The Petitioner asserts that there is no inconsistency because the Form I-360 only asks for "...the last address" at which they lived together. The Petitioner also asserts that she has addressed the discrepancies identified by the Director specifically relating to M-B- not listed as a tenant on their first rental lease and to car insurance documentation showing the Petitioner's car insured with another person, not M-B-. The Petitioner reiterates that she signed an apartment lease without M-B- present to lock in a special rate, and that documentation shows they then lived there.<sup>2</sup>

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<sup>2</sup> The record shows that in response to a notice of intent to deny a relative petition filed on her behalf, the Petitioner submitted an affidavit stating that she had been apartment hunting alone, that she found an apartment with a move-in

The preponderance of evidence, as supplemented on appeal, establishes that the Petitioner entered into her marriage with M-B- in good faith. Evidence the Petitioner submits on appeal provides additional details regarding her relationship with M-B- prior to and immediately following their marriage. The bank account statements from the periods immediately following their marriage indicate activity for both the Petitioner and M-B-, including pay deposits from M-B-'s employment as a [REDACTED] driver. Thus, the statements show a commingling of funds and shared access that support her assertions on appeal that she married in good faith. The photographs submitted below and supplemented on appeal show the Petitioner and M-B- in a variety of settings and span a period of time prior to and following their marriage, thus also providing support for her assertion that she married in good faith.

Accordingly, the Petitioner has overcome the Director's grounds for denial of her VAWA petition and established that she entered into marriage with M-B- as section 204(a)(1)(A)(iii)(I)(aa) of the Act requires.

**ORDER:** The appeal is sustained.

Cite as *Matter of M-C-S-*, ID# 557675 (AAO Oct. 17, 2017)

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special, and that rental agents pushed her to fill out the application. She stated that M-B- was not there at the time and that he had poor credit.