



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

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

In Re: 24049124

Date: MAR. 15, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions, codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner had not established that she had resided with her U.S. citizen spouse and that the marriage had been entered into in good faith. The Director also found that based upon the substantial and probative derogatory findings which conflicted with the Petitioner's claims, it appeared that the marriage between the Petitioner and her U.S. citizen spouse had been entered for the sole purpose of procuring an immigration benefit. On appeal, we adopted and affirmed the Director's decision and dismissed the Applicant's appeal accordingly. The matter is now before us on a motion to reopen. Upon review, we will dismiss the motion.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). We cannot grant a motion that does not meet applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

The issue before us is whether the Petitioner has submitted new facts supported by documentary evidence sufficient to warrant reopening her appeal. We find that the matter does not warrant reopening.

The Petitioner submitted a VAWA petition in 2016 based on her relationship to her U.S. citizen spouse, B-K-.¹ The Director denied the VAWA petition, finding that the Petitioner did not establish that she resided with B-K- or that she entered the marriage in good faith. The Director also noted discrepancies and credibility concerns in the record that were not resolved by the Petitioner. The Director's decision specifically discussed a 2015 site visit by USCIS to the Petitioner's apartment where there was no evidence of a cohabitating spouse, and the building manager stated that B-K- was not listed on the lease and that no male occupants resided at the apartment with the Petitioner. As the Petitioner submitted a lease for the residence listing her name and B-K-'s name with the VAWA petition, the Director determined that the document was not credible.

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

In our decision to adopt and affirm the Director's decision and dismiss the appeal, we acknowledged that the submitted documentation reflected that payments were made to a property manager; that the Petitioner and her spouse, B-K- shared a joint checking account for a portion of their marriage; and that tax debt was accrued in 2012. However, we determined that the Petitioner's own statements did not provide sufficient probative details of her relationship with B-K- to establish that she entered into her marriage with him in good faith or that they resided together. Additionally, the Petitioner had not sufficiently addressed the discrepancies and credibility concerns identified in the Director's decision. While the Petitioner's attorney related in the appeal brief that during the 2015 USCIS site visit, B-K- "had moved out for all practical purposes of the marital home;" no other explanation was given, and assertions of counsel do not constitute evidence. We concluded that the Petitioner had not established that she entered into her marriage with B-K- in good faith or that they resided together as sections 204(a)(1)(A)(iii)(I)(aa) and (II)(dd) of the Act require.

On motion, the Petitioner contends that without the benefit of the complete site visit report, it is difficult to determine the veracity of the building manager's contention that the Petitioner's husband was not on the lease or that there was no male occupant residing at the apartment with the Petitioner. The Petitioner further states that there is no evidence or reason not to give the lease for the residence listing the Petitioner's and B-K-'s name the weight it deserved. The Petitioner submits bank statements from October 20, 2011, through December 11, 2012, referencing both the Petitioner's and B-K-'s names and the apartment address to establish their joint residence. The Petitioner also submits correspondence addressed solely to B-K- in support of her assertion that she and B-K- resided together, contrary to the contention by the building manager. The Petitioner also submits on motion an affidavit from a resident at the same building where the Petitioner contends she lived with B-K-. The affiant attests that he had the opportunity to meet the Petitioner and B-K- when they moved in to the building in June 2011, knew that they got married even though he did not attend the wedding in September 2011 due to job obligations, and attests that the Petitioner and B-K- lived together at the address provided on the lease.

Although we acknowledge the above documentation, the Petitioner has still not provided specific, probative details substantiating her claim that she resided with B-K-, such as describing home furnishings, daily routines, or any of their shared belongings. As for the affidavit referenced above, this statement has limited probative value as it is general in nature, lacks specific dates or details of many of the occasions mentioned, and does not provide any description of the actual residence evincing the Petitioner's life there with B-K-.

We also find on motion that the record does not support the Petitioner's claim that the marriage was entered into in good faith. As detailed by the Director and affirmed by this office, the Petitioner's affidavit is vague and lacks details to support that she entered the marriage in good faith. The letters from B-K-s mother, while stating that the Petitioner is a "good person," do not provide any detail regarding the courtship between her son and the Petitioner, the wedding ceremony, and their life after marriage. The evidence provided on motion offers little additional insight into the Petitioner's intentions in marrying B-K-, their courtship, or the dynamics of the marriage, or detail of mutual interests or circumstances and events demonstrating the Petitioner's involvement prior to or during the marriage.

The Petitioner has not established on motion that she entered into her marriage with B-K- in good faith or that they resided together as sections 204(a)(1)(A)(iii)(I)(aa) and (II)(dd) of the Act require. The Petitioner is not eligible for VAWA classification

ORDER: The motion to reopen is dismissed.