



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: NOV 13 2014

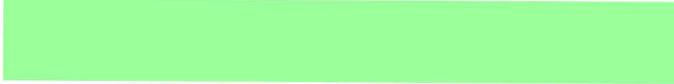
Office: VERMONT SERVICE CENTER

FILE:



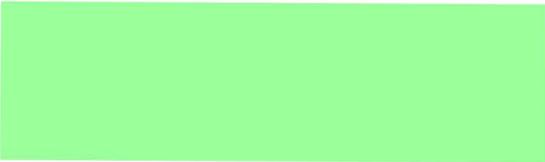
IN RE:

Self-Petitioner:



PETITION Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the  
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Vermont Service Center acting director, (the director) denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as an alien battered or subjected to extreme cruelty by her U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her husband in good faith.

On appeal, counsel submits a brief and additional evidence.

*Relevant Law and Regulations*

Section 204(a)(1)(A)(iii)(I) 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 further 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 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:

(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 guidelines for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

(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.

\* \* \*

(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.

### *Pertinent Facts and Procedural History*

The petitioner is a citizen of Ecuador who entered the United States on July 12, 2000, as a B-2 nonimmigrant visitor. The petitioner married G-H-<sup>1</sup>, a U.S. citizen on February [REDACTED] Utah. The petitioner filed the instant Form I-360 self-petition on September 14, 2012. The director subsequently issued a request for additional evidence of her good faith entry into marriage with G-H-. The petitioner timely responded with further evidence which the director found insufficient to establish her eligibility. The director denied the petition and the petitioner, through counsel, timely appealed.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). On appeal, the petitioner has overcome the director's ground for denial.

### *Entry into the Marriage in Good Faith*

The director incorrectly determined that the petitioner failed to establish that she married G-H- in good faith. The record contains: the petitioner's affidavit; a letter from the petitioner's close friend; a letter from G-H-'s attorney who officiated the wedding ceremony; a letter from a former [REDACTED] mayor who gave the petitioner away at her wedding; an online social media wedding announcement with attached congratulatory messages to the petitioner and G-H-; online social media messages between the petitioner and G-H-'s adult stepdaughter; photographs of the petitioner and D-W-'s wedding; joint bank documents including a jointly used checking account; a [REDACTED] Membership card; a handwritten wedding guest and RSVP list; a post-nuptial agreement; and a [REDACTED] Parent/Teacher/Student Association membership application listing the petitioner and G-H- as parents of the petitioner's daughter.

While the director correctly addressed the deficiencies of the bank statements and the electric bills, traditional forms of joint documentation are not required to demonstrate a self-petitioner's entry into the marriage in good faith. See 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). Rather, a self-petitioner may submit "testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. . . . and affidavits of persons with personal knowledge of the relationship. The

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

statute and regulation require the consideration of all credible, relevant evidence. 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i), (vii). In her lengthy affidavit, the petitioner provided a detailed and credible account of her courtship and marriage to G-H-. She also described G-H-'s sudden change of heart shortly after their marriage. The petitioner described meeting G-H- for the first time at a business event in October of 2003 and seeing him again at on various occasions throughout the years. She recounted how G-H- expressed his attraction to her from the moment that they met, but that she did not really get to know him until January of 2012 when she returned to Utah after being away for about a year. Needing a place to stay, the petitioner stated that she accepted G-H-'s offer to use an apartment at his home for her and her daughter. She described moving into the apartment on January 27, 2012, and having a long conversation with G-H- where she confided many things to him. The petitioner stated that she is an active member of the Mormon faith and that when she went to church the next day, G-H- accompanied her. The petitioner described feeling happy that she met someone who was also an active Mormon who was handsome and generous. She recounted that he gave up drinking for her, cooked meals for her, and prayed with her and her daughter as a family. After a brief courtship, the petitioner stated that G-H- surprised her with a proposal which she accepted because she thought he was a great man who shared her same religious standards. In her letter, the petitioner's friend, [REDACTED] stated that the petitioner asked her to be her maid of honor. Ms. [REDACTED] stated that she had spoken to G-H- on the telephone but did not meet him in person until the actual day of the wedding. Ms. [REDACTED] further stated that on their wedding day, both the petitioner and G-H- were very excited and ready to start their new life together. [REDACTED] the petitioner's friend and former mayor of [REDACTED] stated that he has known the petitioner for over nine years and knew of G-H- professionally. He stated that the petitioner told him that she felt a close connection to G-H- and asked Mr. [REDACTED] to give her away at the wedding. Mr. [REDACTED] said he agreed because he felt that the petitioner should have a trusted person to be with her at the wedding. The electronic mail correspondence between the petitioner and the G-H-'s stepdaughter indicated that the petitioner's intentions upon marrying G-H- were bona fide and out of a desire to create a union based on affection and religion.

On appeal, counsel asserts that the director erred by failing to acknowledge the credible evidence submitted by the petitioner. The petitioner submits additional letters from friends [REDACTED] [REDACTED] In his letter, Mr. [REDACTED] states that the petitioner fell in love with G-H- who she thought was a man who shared her religious beliefs. He states that as the petitioner's close friend, he witnessed her psychological devastation when the marriage did not work out. In her letter, Ms. [REDACTED] states that the petitioner called G-H- the man of her dreams. In his letter, Mr. [REDACTED] states that he is a close friend of the petitioner and that the petitioner seemed really happy with G-H-, who offered her a stable [REDACTED] family life. In her letter, Ms. [REDACTED] states that the petitioner described G-H- as gallant, attentive, and delightful and that the petitioner was very happy to have finally found someone with whom she could be happy.

*De novo* review of all of the relevant evidence submitted below establishes the petitioner's good-faith entry into the marriage. Here, the petitioner provided credible, probative and detailed information demonstrating her good-faith intent upon marrying G-H-. Additionally, the petitioner submitted letters from friends who attested to the petitioner's good-faith marriage with G-H- and numerous online correspondence to the petitioner and G-H- regarding their engagement and marriage. When viewed in

the totality, the preponderance of the relevant evidence submitted below demonstrates that the petitioner entered into marriage with G-H- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

On appeal, the petitioner has established that she entered into the marriage in good faith. She is consequently eligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. *See* Section 291 of the Act, 8 U.S.C. § 1361; *see also Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

**ORDER:** The appeal is sustained.