



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: **SEP 05 2014**

Office: VERMONT SERVICE CENTER File: [REDACTED]

IN RE: Self-Petitioner: [REDACTED]

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:

SELF-REPRESENTED

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

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 dismissed.

The petitioner seeks immigrant classification under 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 a United States citizen.

The director denied the petition for failure to establish that the petitioner married his wife in good faith.

*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 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)(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.

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(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.

### *Facts and Procedural History*

The petitioner is a citizen of Mali who entered the United States as a B-2 nonimmigrant visitor on August 6, 2008. The petitioner married F-D-<sup>1</sup>, a U.S. citizen, on December 15, 2010. The petitioner filed the instant Form I-360 on April 3, 2012. The director subsequently issued Requests for Evidence (RFE) of, among other things, the petitioner's entry into the marriage in good faith. The petitioner timely responded with additional evidence, which the director found insufficient and denied the petition for failure to establish his good-faith entry into marriage with F-D-.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon a full review of the record, the petitioner has not overcome the director's ground for denial.

The relevant evidence submitted below and on appeal fails to demonstrate that the petitioner married his wife in good faith. In the proceeding before the director, the petitioner did not provide his own affidavit about his marriage to F-D-. He did, however, provide affidavits from his friends, [REDACTED] and [REDACTED]. [REDACTED] declared that the petitioner and his wife have been "steadily married" since December 15, 2010. [REDACTED] generally stated that he has known the petitioner and his wife for two years, and is their roommate. He further stated that he has shared "undertakings" with the couple and confirmed their marriage in December 2010. The petitioner's friends did not give any probative details about their observations of the petitioner's courtship or marital relationship with F-D-. The petitioner also provided a letter from [REDACTED], a clinical psychotherapist, and [REDACTED] LCSW, QCSW, at [REDACTED], but their letter addressed only the abuse in the petitioner's marriage and not the petitioner's marital intentions.

In addition to these letters, the petitioner submitted a life insurance policy reflecting the petitioner as the insured on the policy but no information on any beneficiary. The record also contained evidence of a new personal joint checking account with [REDACTED] which reflected that the account was opened after the petitioner's separation from his wife. The petitioner submitted an income tax return for 2011 in the petitioner's name showing his filing status as married filing separately, but no evidence that the return was ever filed with the Internal Revenue Service (IRS). The record also contained a billing invoice from [REDACTED] Cable, a blank check, and a generic bank letter, all of which jointly listed the petitioner and F-D-. The petitioner also submitted a protection order that was issued against his wife

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

stating that, among other things, she was ordered to stay away from the petitioner and his home. However, the general letters from the petitioner's friends, evidence listing a joint address and account for the petitioner and F-D, and an income tax return, do not establish the petitioner's good faith entry into his marriage.

On appeal, the petitioner provides additional information about his life insurance policy showing F-D and the petitioner's brother as beneficiaries. The petitioner also submits evidence of the filing of his 2011 income taxes, a bank statement from [REDACTED] and documentation related to his workers' compensation claim. The bank statement shows a single deposit and is for a period after the petitioner's separation from his wife. The workers' compensation claim is not relevant to the petitioner's marital intentions.

Regardless of the deficiencies of the record, 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. All credible relevant evidence will be considered." 8 C.F.R. § 204.2(c)(2)(vii). In this case, the petitioner has not provided any statement regarding his intentions in marrying F-D-. Similarly, the statements submitted on his behalf do not provide a probative account of the petitioner's good-faith intent. When viewed in the totality, the relevant evidence in the record fails to demonstrate that the petitioner entered into the marriage with F-D- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

The petitioner bears the burden of proof to establish his eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe* 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.