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U.S. Citizenship  
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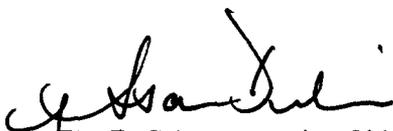
Petitioner:

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the immigrant visa petition. On appeal, the Administrative Appeals Office (AAO) remanded the petition for further action by the director. The matter is now before the AAO upon certification of the director's subsequent, adverse decision. The March 29, 2007 decision of the director will be affirmed and the petition will be denied.

Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii) 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), further states:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), 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].

As the facts and procedural history have been adequately documented in the previous decision of the AAO, we will only repeat certain facts as necessary here. The director initially denied the petition on October 19, 2005, finding that the petitioner failed to establish that she resided with her spouse and that she entered into her marriage in good faith. On appeal, the AAO concurred with the determination of the director but remanded the case on July 25, 2006 because the director denied the petition without first issuing a Notice of Intent to Deny (NOID) in compliance with the regulation then in effect at 8 C.F.R. § 204.2(c)(3)(ii)(2006).<sup>1</sup>

Upon remand, the director issued a NOID on October 31, 2006, which notified the petitioner of the deficiencies in the record and afforded her the opportunity to establish her claim of residence and good faith marriage. The petitioner timely responded to the director's NOID. On March 29, 2007, after considering the evidence submitted in response to the NOID, the director found that the petitioner failed to establish her claim of residence and good faith marriage. The director's discussion will not be repeated here. The director certified his decision to the AAO for review and notified the petitioner that she could submit a brief to the AAO within 30 days of service of the director's decision. No further submission has been received. As such, the record is considered to be complete as it now stands.<sup>2</sup>

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<sup>1</sup> On April 17, 2007, Citizenship and Immigration Services (CIS) promulgated a rule related to the issuance of requests for evidence and NOIDs. 72 Fed. Reg. 19100 (Apr. 17, 2007). The rule became effective on June 18, 2007, after the filing and adjudication of this petition.

<sup>2</sup> We note that the director issued the certification decision to the petitioner in care of [REDACTED], an individual who submitted a Form G-28 on the petitioner's behalf. The certification was returned as undeliverable. On certification, the AAO attempted to contact [REDACTED] to determine whether she was authorized to represent the petitioner in these proceedings as she indicated that she was not an attorney or accredited representative. In response, the AAO received confirmation from [REDACTED] that [REDACTED] works as her paralegal with [REDACTED]'s authorization. Accordingly, as the certification decision was

The relevant evidence submitted below was fully addressed in our prior decision, which is incorporated here by reference. Accordingly, we will only address the material submitted since that decision was issued.

*Residence*

In response to the director's NOID, the petitioner submitted various pieces of mail and envelopes addressed to the petitioner's spouse at the address listed by the petitioner on the Form I-360. However, the documents are all either undated or contain dates well after the petitioner claims to have stopped residing with her spouse. While the petitioner also submitted a photocopy of a New Jersey Division of Motor Vehicles Handicapped Identification Card which she claims is evidence that she lived with her spouse, the card does not contain any reference to her spouse or the claimed address. The additional statements from the petitioner's friends [REDACTED], [REDACTED], and [REDACTED], provide no probative information related to the petitioner's claim of residence with her spouse. Finally, although not noted in our prior decision, the record contains an earnings statement for the petitioner's spouse, dated June 25, 2004 through July 1, 2004, which lists his address at [REDACTED] in Elizabeth, New Jersey, not the address claimed on the Form I-360.<sup>3</sup> Based upon this discrepancy and the lack of documentary or testimonial evidence, we concur with the director's finding that the petitioner failed to establish that she resided with her spouse, as required by section 204(a)(1)(A)(iii)(I)(dd) of the Act.

*Good Faith Marriage*

The statements submitted on the petitioner's behalf in response to the NOID contain general claims such as that the petitioner and her spouse "looked [like] a happy couple." The statements do not contain any specific details about the petitioner's relationship with her spouse, their interactions with each other, or any other probative details which establish that the petitioner entered into her marriage in good faith. The petitioner submitted no further evidence, such as shared financial accounts or joint insurance, to establish that she intended to share a life with her spouse. Accordingly, we concur with the director's finding that the petitioner failed to establish that she entered into her marriage in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

The petitioner has failed to establish that she resided with her spouse and that she entered into her marriage in good faith. Accordingly, she is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act and her petition must be denied.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the March 29, 2007 decision of the director is affirmed and the petition is denied.

**ORDER:** The petition is denied. The March 29, 2007 decision of the director is affirmed.

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issued to the petitioner's representative at the address of record provided by the representative, we find the decision was properly issued.

<sup>3</sup> The earnings statement was submitted as part of the packet which accompanied the petitioner's Form I-485, Application to Adjust Status.