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U.S. Citizenship  
and Immigration  
Services

B9

FILE: [REDACTED]  
EAC 06 229 51109

Office: VERMONT SERVICE CENTER

Date: FEB 24 2009

IN RE: 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:  
[REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, 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 classification as a special immigrant 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 the battered spouse of a U.S. citizen. The director denied the petition because the petitioner failed to establish that she entered into her marriage in good faith.

The petitioner submits a timely appeal.

Section 204(a)(1)(A)(iii) of the Act provides that the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates that he or she entered into the marriage with the U.S. citizen spouse in good faith and that, during the marriage, the petitioner or a child of the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. In addition, the 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, 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), 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 regulation at 8 C.F.R. § 204.2(c)(1) provides guidance regarding relevant eligibility requirements:

(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:

*Evidence for a spousal self-petition –*

(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.

#### *Procedural History and Pertinent Facts*

The record in this case provides the following pertinent facts and procedural history. The petitioner is a native and citizen of Nigeria who was admitted to the United States on December 25, 1998 as a B-2 nonimmigrant visitor. On May 22, 2002, the petitioner married A-C-<sup>1</sup> a U.S. citizen, in Atlanta, Georgia.

The petitioner filed the instant Form I-360 Petition on August 2, 2006, and the director issued a Notice of Intent to Deny (NOID) the petition on June 12, 2007. The petitioner responded on July 13, 2007 by submitting additional evidence of abuse, a copy of a lease agreement to show that the couple lived together at the same address in September 2005, and a statement from the petitioner. The director found that the petitioner had failed to provide sufficient evidence of eligibility and denied the petition on July 31, 2007.

The petitioner, through counsel, submits a timely appeal and additional evidence. As will be discussed, the AAO concurs with the finding of the director that the petitioner failed to establish that she entered into her marriage in good faith.

#### *Good Faith Entry into Marriage*

The record contains the following evidence relevant to the petitioner's claim that she entered into her marriage with her U.S. citizen spouse in good faith:

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

- Three statements by the petitioner, the first undated but apparently submitted with the I-360 Petition on August 2, 2006; the others dated June 18, 2007 and September 15, 2007, respectively, the latter submitted on appeal.
- Four photographs of what appears to be a marriage ceremony, which show the petitioner and her husband, the individual conducting the ceremony, and another couple.
- A Protective Order against A-C-, dated November 9, 2005, indicating that he and the petitioner shared a “family home” in Riverdale, Georgia on the date the Protective Order was issued.
- An affidavit from [REDACTED], dated September 14, 2007, indicating that the petitioner had gone to her office in 2005 seeking advice on how her U.S. citizen husband could file an immediate relative petition for her. She stated that the petitioner reported that her husband was very violent with her and had been arrested.
- An affidavit from [REDACTED], dated May 6, 2007, in which he stated that he was aware of the marriage between the petitioner and A-C-, that “[t]hey were happily married in year 2002 but they started having marital problems about a year later.” He added that the petitioner informed him of many instances of abuse, and concluded, “[this is a dysfunctional marriage despite the meaningful love that was shown in the beginning.” A statement from the petitioner’s daughter, submitted on July 13, 2007 when the daughter would have been 12 years old, in which she described incidents of abuse by A-C- against her mother, noting, “[s]ometimes he was nice [but] most of the time he wasn’t.”

On appeal, the petitioner submits three additional affidavits of persons who claim some personal knowledge of the relationship. These affidavits, however, confirm the abuse suffered by the petitioner but are devoid of other details of the couple’s relationship. One affiant states that he has known A-C- for more than six years and that he “attested to the bona fide marriage between [the couple]”; another states, “I make this affidavit attesting to the bona fide marriage between [the couple]”; the third states that she witnessed the couple’s marriage. The record also contains multiple police reports, court findings and medical reports confirming that the petitioner “was battered or subjected to extreme cruelty perpetrated by the petitioner’s spouse,” as required under the Act. However, the issue on appeal is whether the petitioner entered into her marriage in good faith. The affidavits, and other documents in the record, do not provide any evidence to support that claim.

The petitioner offers minimal details regarding her relationship in her three statements. In her initial statement she noted only that she and A-C- were married in 2002 and lived happily together for four months, when he moved out to live with another woman he had been seeing. The rest of her statement describes how A-C- would call her in the following years and plead to move back with her, and that in 2005, after he had moved back for a few months, he became increasingly abusive. In her second statement, submitted in response to the NOID, she claimed that she met A-C- when he was a taxi driver who gave her a ride and that they had a conversation at that time and later spoke to each other by telephone and exchanged information about their respective family backgrounds; otherwise her statement again focuses on the abuse she suffered.

On appeal, she submits an affidavit in which she swears that she married A-C- with every intention that the marriage would be a lifelong commitment to each other. She claims that they discussed their religious beliefs as Muslims before they were married; that A-C- had been kind to her when they dated and to her daughter; and that he pushed for marriage and she thought it was the best idea for them to marry and begin their new family life.

Other than the affidavits described above, including those from the petitioner, the record lacks any evidence that the petitioner entered into her marriage in good faith. While the petitioner and others describe an abusive relationship in detail, neither she nor others who claim to have known her before her marriage provide any credible details regarding her feelings for her husband before her marriage or her plans for a future with her husband. She states only that she met him when he was a taxi driver and that they had several conversations before they got married. She does not provide any dates or time frame for their courtship. She provided no further details of her own, and no information from others or additional evidence.

The record is devoid of information about how or why the couple married or what plans they had for a future together that would indicate a good faith marriage. Similar to the petitioner's own statements, friends failed to provide relevant details about the feelings or plans or activities of the couple during their courtship or marriage, but rather focus on the abusive relationship.

### *Conclusion*

While the petitioner claims that she intended that her marriage to A-C- be a lifelong commitment, there is no evidence in the record to support this claim. There is no description, from the petitioner, her family or friends, describing their courtship, decision to marry, their wedding or any of their shared experiences, apart from the alleged abuse. Evidence of good faith at the time of marriage is absent from the record. *See* 8 C.F.R. § 204.2(c)(2)(vii).

The petitioner is not required to submit preferred primary or secondary evidence. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204.1(f)(1), 204.2(c)(2)(i). However, the lack of probative detail and substantive information in the petitioner's testimony regarding the couple's courtship, decision to marry, wedding, and shared residences and experiences, other than those related to abuse, significantly detracts from the credibility of her claim. In sum, the petitioner has failed to establish by a preponderance of the evidence that she entered into marriage with her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

As always, the burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The appeal is dismissed.