

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



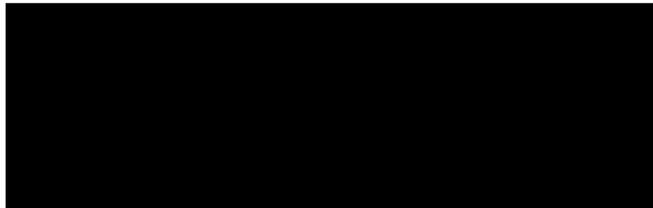
B9

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **SEP 20 2010**

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
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 sustained. The petition will be approved.

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 a United States citizen.

Section 204(a)(1)(A)(iii) 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).

The director denied the petition after determining that the petitioner failed to establish that she entered into the marriage in good faith. Counsel for the petitioner submitted a timely filed Form I-290B, Notice of Appeal or Motion, a brief, the petitioner's April 13, 2010 affidavit, and affidavits of the petitioner's sister and the petitioner's friend and other documentation as evidence of the petitioner's intent when entering into the marriage.

The evidentiary guidelines for a self-petition under section 204(a)(1)(A)(iii) of the Act are explained 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.

On March 19, 2010, the director denied the petition solely because the petitioner had not established that she married her former husband in good faith. Upon review of the record, the petitioner has established that she entered into the marriage in good faith. In addition to affidavits submitted on her behalf, the petitioner also provided indicia of a good faith marriage including a letter from the Department of Veterans Affairs evidencing the petitioner's former husband attempt to add the petitioner as his dependent. Moreover, the petitioner provided a detailed statement regarding the issue of her good faith in entering into the marriage on appeal. The petitioner's statement includes probative detail of the couple's interactions and relationship prior to and during the marriage. The petitioner has also provided detailed information regarding the circumstances of the relationship, as well as detailing her intent when entering into the marriage, to conclude that she entered into the marriage in good faith. The petitioner's probative statement on appeal, as well as the indicia of a bona fide marriage previously submitted coupled together, is sufficient to establish that she entered into the marriage in good faith. As this issue was the only issue to be resolved to establish eligibility for this benefit and as the record before the AAO sufficiently demonstrates that the petitioner entered into the marriage in good faith, the petition is approvable. The applicant has met her burden of proof and the appeal will be sustained.

ORDER: The appeal is sustained. The decision of the director is withdrawn and the petition is approved.