

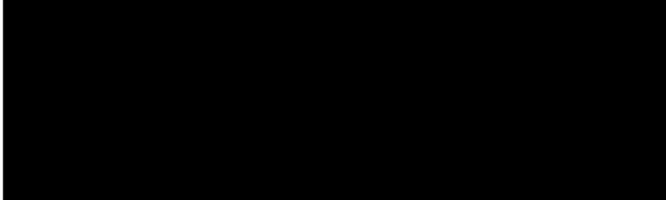
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**



B9

DATE: **APR 26 2011** Office: [REDACTED] FILE: [REDACTED]  
IN RE: Petitioner: [REDACTED]

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

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, [REDACTED] 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 petition remains denied.

The petitioner seeks immigrant classification under section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii), as an alien battered or subjected to extreme cruelty by a United States lawful permanent resident.

The director determined that the petitioner had not established that she had entered into the marriage in good faith. On appeal, the petitioner submits a brief and a copy of a September 28, 2009 personal statement.

#### *Applicable Law and Regulations*

Section 204(a)(1)(B)(ii) of the Act provides that an alien who is the spouse of a United States lawful permanent resident may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States lawful permanent resident 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 a spouse of an alien lawfully admitted for permanent residence under section 203(a)(2)(A) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(B)(ii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(B)(ii)(II).

Section 204(a)(1)(J) of the Act 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 explained 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)(B)(ii) of the Act are set forth 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.

### *Facts and Procedural History*

The petitioner is a native and citizen of the [REDACTED]. She entered the United States on July 1, 2008 on a J-1 visa. She married R-L,<sup>1</sup> the claimed abusive United States lawful permanent resident on August 12, 2008. On November 3, 2009, the petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The petitioner notes on the Form I-360 that she resided with R-L from August 2008 to December 2008. On February 4, 2010 and June 3, 2010, the director issued requests for evidence (RFE). Upon review of the record, including the petitioner's responses to the RFEs, the director determined that the petitioner had not established that she had entered into the marriage in good faith. The petitioner timely submits a Form I-290B, Notice of Appeal or Motion, and provides a signed brief and an unsigned statement in support of the appeal.

### *Good Faith Entry Into Marriage*

The petitioner initially provided a signed October 25, 2009 statement in support of the Form I-360. The petitioner indicated she met R-L on July 8, 2008 in [REDACTED] where she was employed. She noted that R-L lived in [REDACTED] but was visiting a friend in [REDACTED] when she met him. The petitioner declared that the couple spent two days together before R-L had to return to [REDACTED]. She stated that the couple communicated via telephone and the next week, R-L returned to [REDACTED] and the couple spent an additional two days together. The petitioner reported that she traveled to [REDACTED] via Greyhound on August 8, 2008 and R-L met her at [REDACTED]. The petitioner also listed places that R-L took her in [REDACTED] and in paragraph nine of her statement stated that R-L proposed to her on July 20, 2008 at a restaurant in [REDACTED]. The petitioner indicated that the couple married on August 12, 2008 and that they moved into a new apartment on [REDACTED] on August 26, 2008. The petitioner reported she cooked and cleaned for R-L, she wanted to have a good

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

family, she watched movies with R-L-, and she encouraged him to stop smoking. The petitioner also referenced a birthday party for a friend, [REDACTED] that the couple attended in October 2008. The remainder of the petitioner's October 25, 2009 statement concerns the abuse that she was subjected to by R-L-.

In response to the director's RFE, the petitioner provided a second personal statement dated April 29, 2010, in which she declared that she married R-L- on August 12, 2008 in good faith. The petitioner noted that she lived with R-L- at his old address on [REDACTED] from the date of her marriage to August 26, 2008, when the couple moved into the apartment on [REDACTED] Street. The petitioner reported that the utilities were included in the rent payment and provided a lease dated August 26, 2008 with a handwritten note that gas and electric were included in the rent. The record also included an April 29, 2010 affidavit signed by [REDACTED] the landlord of the [REDACTED] Street apartment. [REDACTED] declared that he had rented the couple the apartment and the couple frequently invited him to visit them. [REDACTED] indicated that the petitioner and R-L- were a beautiful, lovely and loving couple and told him of the places they visited and discussed their future with him. He noted that he attended the petitioner's birthday celebration in October 2008 with a few of the couple's friends.

The record also included an April 29, 2010 affidavit signed by [REDACTED] who declared that he had known the petitioner for almost two years and that R-L- had introduced the petitioner to R-L-'s friends in September 2008. [REDACTED] noted that the couple looked happy together and that the petitioner and R-L- told him that they were going to get married. [REDACTED] also reported that he visited the couple, attended a birthday party for the petitioner in October 2008, and he saw the couple on a weekly basis. The record further included photographs of the couple.

Based on the evidence in the record, the director denied the petition on September 21, 2010, determining that the petitioner had not provided satisfactory evidence establishing that she married R-L- in good faith.

On appeal, the petitioner asserts in the brief that the copy of the lease, the landlord's affidavit, and the photographs submitted are evidence of the bona fides of her marriage. The petitioner contended that her personal affidavits included a lot of details on several pages regarding her relationship with R-L- both before and after marriage. The petitioner also includes her personal statement dated September 28, 2009 which is unsigned. In the September 28, 2009 statement, the petitioner reports that she came to [REDACTED] on August 8, 2008, R-L- proposed to her on August 12, 2008 at dinner in a restaurant in [REDACTED] and that the couple registered their marriage the same day, August 12, 2008, at [REDACTED] City Hall.

Upon review of the record, we find no error in the director's assessment of the relevant evidence. The petitioner's statements and the statements submitted on her behalf present inconsistencies that undermine the petitioner's credibility. The petitioner does not provide consistent information when describing R-L-'s proposal to her. Although she stated that R-L- proposed to her in [REDACTED] her October 25, 2009 statement indicates that R-L- proposed to her on July 20, 2008, a time prior to her traveling to [REDACTED] on August 8, 2008. In the unsigned statement submitted for review on appeal, the petitioner indicates that R-L- proposed to her at dinner at a

restaurant and then registered the marriage on the same day at ██████████ City Hall. The petitioner's description of the proposal but her inability to recall the specific date of the proposal undermines the remainder of her testimony regarding her interactions with R-L-. She has also failed to provide other consistent probative detail that would assist in evaluating her good faith in entering into the marriage. For example, the petitioner does not indicate where she stayed once she traveled to ██████████ on August 8, 2008 to the date of her marriage on August 12, 2008 and although she lists several activities and places she allegedly visited with R-L- she fails to provide the circumstances, timing, or interactions occurring during the dates. The statement submitted by ██████████ also presents inconsistencies. For example, ██████████ indicated that R-L- introduced the petitioner to his friends in September 2008 but then indicates that the couple told him of their plans to be married, an event that occurred on August 12, 2008.

The petitioner's statement that she entered into her marriage in good faith is insufficient. The failure to provide detailed information regarding the circumstances of traveling to ██████████ and living in ██████████ prior to and just after marriage, and the inconsistencies in the petitioner's testimony and the testimony submitted on her behalf all contribute to the determination that the petitioner failed to credibly demonstrate that she entered into the marriage in good faith. The record also lacks information regarding the couple's claimed joint life for the three months the petitioner claims the couple was married and living together.

The information provided by the petitioner's landlord and ██████████ do not provide the requisite detailed information regarding the petitioner's intent when entering into the marriage. The lease submitted is insufficient to establish the petitioner's good faith in entering into the marriage and the photographs with no identifying information are of little probative value in ascertaining the good faith intent of the petitioner when entering into the marriage. The photographs submitted show that the petitioner and R-L- were together on a few unidentified occasions, but this evidence alone fails to establish the requisite good faith.

The petitioner's statements fail to provide probative, consistent information regarding her courtship with and marriage to R-L-. The petitioner does not describe the couple's mutual interests, she does not describe their daily routines in detail, and she does not provide any probative information for the record that assists in determining her intent when entering into the marriage. The key factor in determining whether a petitioner entered into a marriage in good faith is whether he or she intended to establish a life together with the spouse at the time of the marriage. *See Bark v. INS*, 511 F.2d 1200 (9th Cir.1975). In this matter the petitioner has not set forth her intent in probative detail in her statements to United States Citizenship and Immigration Services (USCIS).

Upon review of the totality of the record, the record does not include sufficient evidence to establish that petitioner intended to establish a life together with R-L- when entering into her marriage. Considered in the aggregate, the relevant evidence fails to demonstrate that the petitioner entered into marriage with R-L- in good faith, as required by section 204(a)(1)(B)(ii)(I)(aa) of the Act.

*Conclusion*

The petition will be denied and the appeal dismissed for the above stated reason. 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. Here that burden has not been met.

**ORDER:** The appeal is dismissed. The petition remains denied.