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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: FEB 01 2012 OFFICE: VERMONT SERVICE CENTER FILE: [REDACTED]

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:

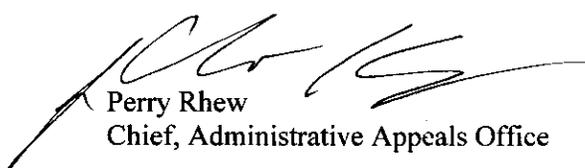
[REDACTED]

INSTRUCTIONS:

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 service center 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 on the basis of his determination that the petitioner failed to establish that she married her husband in good faith. On appeal, counsel submits a brief reasserting the petitioner’s eligibility.

*Applicable Law*

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).

Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J) states, in pertinent part, the following:

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 further at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part, the following:

- (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 standard and guidelines for a self-petition filed under section 204(a)(1)(A)(iii) of the Act are explained further at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part, the following:

*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.

#### *Pertinent Facts and Procedural History*

The petitioner is a citizen of Egypt who entered the United States on or around March 1, 2001. She married B-E-<sup>1</sup> a citizen of the United States, on August 19, 2008. The petitioner filed the instant Form I-360 on April 26, 2010. The director issued a subsequent request for additional evidence (RFE) and the petitioner, through counsel, filed a timely response. After considering the evidence of record, including the petitioner's response to his RFE, the director denied the petition on April 20, 2011.

The AAO reviews these matters on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review of the entire record, we find that the petitioner has failed to overcome the director's ground for denying this petition.

#### *Good Faith Marriage*

The relevant evidence does not establish that the petitioner married B-E- in good faith. The record contains affidavits from the petitioner dated February 2 and March 31, 2010 in which she stated that [REDACTED] was very kind to her during their courtship and that she married him for love. However, she did not provide a probative account of their courtship, wedding ceremony, and shared residence and experiences, apart from the abuse. Nor do the affidavits from the petitioner's friends establish that she married [REDACTED] in good faith: although they all attest that the couple married for love, none of them describe any particular interaction between the two or provide any other detailed, probative information regarding their relationship. As noted by the director, several of the affidavits are very similar to one another, which raises questions regarding their authorship and detracts from their credibility. The relevant testimonial evidence does not establish that the petitioner married B-E- in good faith.

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

On appeal, counsel asserts that the petitioner's husband's control of their finances was part of his abuse and the director should not have discounted the petitioner's joint bank account statements. Nonetheless, the relevant documentary evidence fails to establish that the petitioner married B-E- in good faith. In addition to the bank statements, the petitioner submitted copies of utility bills, mailers, and cellular phone statements, but most of these documents are dated either immediately before the petitioner's Form I-130 was filed or immediately before her immigration interview. While the pictures of the couple document their presence together on a few occasions, they are not evidence of the petitioner's good faith entry into the marriage. Nor is the residential lease agreement submitted by the petitioner evidence of her good faith marriage, as the petitioner's administrative file contains a December 11, 2009 statement from the owner of the property stating that he had viewed the lease agreement and that: it is a "complete fraud;" his signature on the document is a forgery; he does not know B-E- or the petitioner; and that the property has been leased to another individual "for many years."

Given the evidentiary deficiencies outlined above, we are not persuaded by counsel's assertion made on appeal that the director failed to accord proper evidentiary weight to the relevant evidence submitted below. Counsel asserts that the director should have contacted the authors of the virtually-identical affidavits in order to ensure their authenticity, but counsel fails to acknowledge that the petitioner bears the burden of proof in these proceedings; a burden that may not be shifted to U.S. Citizenship and Immigration Services. Section 291 of the Act, 8 U.S.C. § 1361. Nor are we persuaded by counsel's argument that the affidavits submitted in the petitioner's RFE response in fact contained detailed information about the couple's relationship. They did not, and counsel does not provide examples of probative details regarding the couple's relationship from those affidavits; he simply claims they exist. Counsel also does not address the forged residential lease agreement.

Considered in the aggregate, the relevant evidence does not establish that the petitioner married B-E- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

The petitioner has failed to overcome the director's ground for denial and has not established that she married [REDACTED] in good faith. Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act and this petition must remain denied.

In these proceedings, the petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.