

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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 13 2012

Office: VERMONT SERVICE CENTER File: 

IN RE: 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:

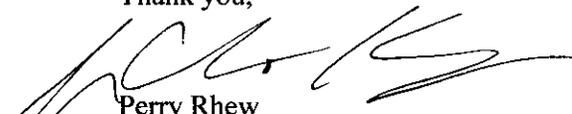
SELF-REPRESENTED

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 the \$630 fee. 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, Vermont Service Center, (“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 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 her U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her husband in good faith.

On appeal, the petitioner submits a statement and letters from friends.

Relevant Law and Regulations

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 further 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 further explicated 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)(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.

Pertinent Facts and Procedural History

The petitioner is a citizen of Guyana who states that she entered the United States on September 15, 2004 without inspection. The petitioner married A-A-¹, a U.S. citizen, on August 29, 2008 in Kew Gardens, New York. The petitioner filed the instant Form I-360 on January 4, 2011. The director subsequently issued a Request for Evidence (RFE) of, *inter alia*, the petitioner's good-faith entry into the marriage. The petitioner timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner timely appealed.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A full review of the record, including the evidence submitted on appeal, fails to establish the petitioner's eligibility. The petitioner's claims and the evidence submitted on appeal do not overcome the director's ground for denial and the appeal will be dismissed for the following reasons.

Entry into the Marriage in Good Faith

The relevant evidence submitted below and on appeal fails to demonstrate the petitioner's entry into her marriage in good faith. The petitioner initially submitted copies of joint utility bills for the periods August to November 2010 as evidence of her good faith marriage. In response to the RFE, the petitioner submitted an affidavit, dated April 1, 2011, in which she discussed the abuse in her marriage, but did not describe how she met her husband, their courtship, wedding ceremony, joint residence or any of their shared experiences. The petitioner also submitted letters from four friends who spoke predominately of the abuse and provided no probative information regarding the petitioner's good faith in entering the relationship.

On appeal, the petitioner submits a letter, dated August 2, 2011, in which she states that she loves A-A- and has resided with him since June 14, 2005. She also submits a second affidavit, dated July 28, 2011,

¹ Name withheld to protect the individual's identity.

in which she asserts that she has known A-A- since she was 12 years old. She explains that A-A- worked with her uncle and they started dating secretly when she was 18 years old. The petitioner states that they had a relationship for a few years until A-A- moved to the United States. She recalls that when she came to the United States, she met A-A-'s sister and learned that A-A- was divorced from his first wife. She states that A-A- called her the next day and she went to his home. She recounts that she moved into A-A-'s home two days later and a few weeks later A-A- asked her to marry him. Although the petitioner, who is now 52 years old, describes how she was reunited with A-A-, her brief statement does not discuss their recent courtship, wedding ceremony, joint residence or any of their shared experiences in the United States.

The petitioner also submits on appeal letters from her friend, [REDACTED] her sister-in-law, [REDACTED] and her brother, [REDACTED]. These individuals describe their knowledge of the petitioner's relationship with A-A- 30 years ago in Guyana, but they do not discuss in probative detail their observations of the petitioner's interactions with or feelings for A-A- during their courtship or marriage in the United States.

A full review of the relevant evidence submitted below and on appeal fails to reveal any error in the director's determination. In her second affidavit, the petitioner describes her relationship with A-A- 30 years ago in Guyana, but she does not describe their recent courtship, wedding ceremony, joint residence or any of their other shared experiences in the United States. The letters from the petitioner's friends do not discuss in probative detail their observations of the petitioner's interactions with or feelings for A-A- during their courtship or marriage in the United States. As documentary evidence, the petitioner submitted joint utility bills for a four month period in 2010, two receipts from furniture stores and three short notes that appear to be from A-A-. These documents are not probative of the petitioner's good faith intentions in entering into a marriage with A-A-. Accordingly, the petitioner has failed to demonstrate 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.

Conclusion

On appeal, the petitioner has failed to establish that she entered into the marriage in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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). Here, that burden has not been met. Accordingly, the appeal will be dismissed and the petition will remain denied.

ORDER: The appeal is dismissed.