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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

Bq.

DATE: **FEB 22 2012** Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

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:

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 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, 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 petition will remain denied.

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 determined that the petitioner had not established that she had entered into the marriage in good faith. On appeal, the petitioner submits a Form I-290B, Notice of Appeal or Motion, her additional statement, and two statements on her behalf.

#### *Applicable 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 based on his or her relationship to the abusive spouse, 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 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)(A)(iii) 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 Ghana. She last entered the United States on February 20, 2010 as a parolee with temporary authorization to remain in the United States until February 19, 2011. On [REDACTED] she married [REDACTED]<sup>1</sup> the claimed abusive United States citizen (USC) spouse. On June 15, 2010, the petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The petitioner omitted information regarding her joint residence with her USC spouse on the Form I-360. In the petitioner's personal statement she indicated that her USC spouse left the marital residence in March 2002. Based on the insufficient information in the record, the director issued a request for evidence (RFE). Upon review of the record, including the petitioner's response to the RFE, the director determined that the petitioner had not established that she had entered into the marriage in good faith. The petitioner submits a Form I-290B, her statement, and two statements from friends on appeal.

### *Good Faith Entry Into Marriage*

In the petitioner's initial May 28, 2010 statement she indicated that her husband was the love of her life and the man she wanted to spend the rest of her life with and had future plans of having a family together. She noted that she was very much in love with her husband.

In the RFE, the director observed that the petitioner had two children with her former partner while she was married to [REDACTED] and requested that the petitioner explain the circumstances of her relationship with her former partner. In response, the petitioner stated that before the couple married she asked that [REDACTED] court her and when the couple developed emotional ties, she requested marriage counseling from the Ghanaian church ministries. The petitioner then repeated her initial statement but did not provide any testimony regarding her relationship with her prior partner as requested.

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

In the director's decision, he considered the petitioner's personal statements, the statements of others submitted on her behalf, and the documentary evidence submitted. The director pointed out the deficiencies in the evidence submitted, noted the petitioner's maintenance of an ongoing relationship with her previous partner, and determined that the record did not establish the petitioner's good faith intent when entering into the marriage.

On appeal, the petitioner states that during her marriage to [REDACTED], she became very depressed because of his actions and turned to her former boyfriend for refuge. She acknowledges that as a result she had two children by her former boyfriend during her marriage to [REDACTED] even though [REDACTED] was the man she truly cared about. The petitioner also submits the affidavits of [REDACTED] who testify that they knew that the petitioner married [REDACTED] in good faith. The affiants declare that they know that the petitioner had two children by her former boyfriend when she was legally married to [REDACTED] but believe that this occurred when [REDACTED] would leave the petitioner and she would seek help from her former boyfriend.

The petitioner in this matter has not provided sufficient detailed testimony to establish she entered into the marriage in good faith. The petitioner provides insufficient information regarding her interactions with [REDACTED] prior to or subsequent to the marriage to assist in ascertaining her intent when entering into the marriage. Her testimony does not include detailed information regarding her actual courtship, the wedding ceremony, the shared residence, the types of activities the couple enjoyed together, or her interactions with [REDACTED] except as it later relates to the claim of abuse. The statements of the petitioner's friends and relatives submitted below and on appeal contain no probative information regarding the petitioner's intentions in marrying her spouse. In this matter, none of the declarants describe particular or specific incidents or social occasions which include their personal observations of the petitioner's relationship with [REDACTED]. The declarants do not provide testimony in detail establishing their personal knowledge of the petitioner's relationship with [REDACTED]. The director also pointed out the deficiencies in the documentary evidence the petitioner submitted below.

The petitioner does not provide evidence on appeal sufficient to overcome the director's decision in this matter. The record does not include a probative account of her courtship, wedding ceremony, shared residence, and experiences with [REDACTED]. She does not provide detailed information establishing her good faith intent when entering into the marriage with [REDACTED]. Thus, the record is insufficient to establish she entered into the marriage with [REDACTED] in good faith, as required by section 204(a)(1)(A)(iii)(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.