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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

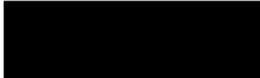
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DATE: **MAY 04 2012**

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:

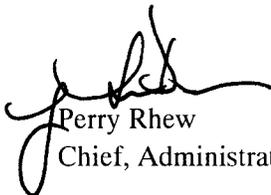
SELF-REPRESENTED

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 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 (USC).

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, and additional documentation. The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

#### *Applicable Law and Regulations*

Section 204(a)(1)(A)(iii) of the Act provides that an alien who is the spouse of a USC may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the USC 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 petitioner'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 pursuant to Section 204(a)(1)(A)(iii) of the Act are further set out 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 citizen and native of Guyana. She entered the United States on July 31, 2005 as a B-2 visitor. She married [REDACTED]<sup>1</sup> the claimed abusive USC on [REDACTED] 2007. On September 28, 2010, the petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The petitioner noted on the Form I-360 that she resided with the claimed abuser from January 2007 until July 2008. As the initial record was insufficient to establish the petitioner's eligibility, the director issued a request for further evidence (RFE). Upon review of the totality of the record, including the petitioner's response to the RFE, the director determined that the petitioner had not established she had entered into the marriage in good faith. The petitioner timely submits a Form I-290B, Notice of Appeal or Motion, her additional personal statement, and additional documentation.

### *Good Faith Entry into Marriage*

The petitioner initially did not provide a personal statement or other probative evidence establishing she entered into the marriage in good faith. In response to the director's RFE, she provided a personal statement, affidavits signed by [REDACTED] and [REDACTED] and resubmitted a copy of a lease allegedly entered into on February 5, 2007, a copy of a May 18, 2008 phone bill, and welcome letters from Chase bank regarding an account. The record also included photographs of the petitioner and the couple's wedding ceremony. In the petitioner's August 16, 2011 personal statement, she provided a broad overview of her initial chance meeting with [REDACTED] in June, their subsequent talking on the phone and dating, and [REDACTED] proposal and their marriage. The petitioner's statement does not include probative detail describing a relationship allegedly beginning in June 2006 with the claimed joint residence ending in July 2008. The petitioner although professing to love [REDACTED] provides a summary of the claimed relationship and lists generally described occasions indicating the couple was together prior to and subsequent to the marriage. Her

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

testimony, however, fails to provide insight into her intent when entering into the marriage. Similarly, neither the general statement of [REDACTED] nor [REDACTED] includes testimony that provides insight into the petitioner's intent when entering into the marriage. As the director observed, the phone bill, the bank letters, and the lease are insufficient to establish the petitioner's intent when entering into the marriage.

On appeal, the petitioner provides a December 21, 2011 personal statement discussing the couple's intimate relations; she, however, does not provide sufficient additional testimony evidencing her good faith intent when entering into the marriage. In the December 19, 2011 statement of [REDACTED] [REDACTED] states generally that the couple seemed very much in love when he saw them on several occasions. In the December 20, 2011, additional statement signed by [REDACTED] [REDACTED] emphasized that [REDACTED] seemed very much in love with the petitioner and that he observed the love between the young couple at a restaurant and once when he visited the couple's home and once when he called on the phone. The petitioner also provides a signature card for the couple's joint bank account and a bank statement for day of March 11, 2008, showing a negative balance and the deposit to correct the negative balance. The petitioner also resubmits the documents previously provided.

Upon review, the petitioner's statement on appeal does not include probative testimony sufficient to provide insight into her intent when entering into the marriage. Similarly, the affiants who submitted statements on the petitioner's behalf provide only general statements of their observations of the couple indicating the couple appeared intimate and to be in love. The limited general testimony of the affiants does not include sufficient detailed information to conclude they had personal knowledge of the relationship and the intent of the petitioner when entering into the marriage. Upon review of the documentary evidence submitted, the information regarding the couple's claimed joint account does not include evidence of the underlying transactions and moreover does not establish that the bank account was established to comingle assets. Photographs of the couple on their wedding day only show that the couple entered into a marriage; photographs do not establish the petitioner's intent when she entered into the marriage. Considered in the aggregate, the relevant evidence fails to demonstrate that the petitioner entered into marriage with [REDACTED] in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

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