



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: [REDACTED] Office: VERMONT SERVICE CENTER File: [REDACTED]

**DEC 13 2013**

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)

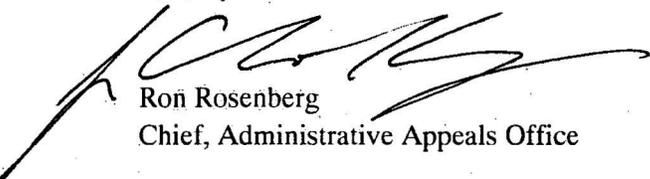
ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
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 his U.S. citizen spouse.

The director denied the petition for failure to establish the petitioner’s entry into his marriage in good faith, and counsel timely appealed.

*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 for immigrant classification as an abused spouse under 204(a)(1)(A)(iii) of the Act are explained further 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:

(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, a citizen of Ghana, married P-M-<sup>1</sup>, a citizen of the United States, on October 14, 2003. He filed the instant Form I-360 on March 21, 2011. The director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's entry into the marriage in good faith. The petitioner responded with additional evidence which the director found insufficient. 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 fails to establish the petitioner's eligibility. The petitioner's claims on appeal do not overcome the director's ground for denial.

*Good-Faith Entry into the Marriage*

We find no error in the director's determination that the petitioner failed to demonstrate that he married his spouse in good faith. The relevant evidence in the record consists of personal statements from the petitioner; photographs; and affidavits from the petitioner's friends [REDACTED] and [REDACTED]

The relevant evidence submitted below and on appeal fails to demonstrate that the petitioner married his spouse in good faith. The petitioner briefly recounted in his first statement dated March 7, 2011 that he first met P-M- in January 2003 when she attended a funeral in Massachusetts with his friend [REDACTED] who was P-M-'s co-worker. The petitioner declared [REDACTED] introduced him to P-M-, who invited him to have lunch at her house, where they spoke to each other about their families. The petitioner briefly stated that he fell in love with P-M-, she moved into his apartment in September 2003, and they wed on October 14, 2003. The petitioner stated that he was a live-in certified nurse assistant and home health aide and they moved back to his wife's [REDACTED] apartment with her teenage children. The petitioner briefly asserted in his second statement dated August 2, 2012, that although he spent time with P-M-, in 2006 he quit his job because his live-in work hours took a toll on his marriage. The petitioner failed to discuss further details of how he first met P-M-, his period of courtship and engagement with P-M-, and his wedding; his joint residence with P-M- or any of his shared experiences with P-M-, apart from the abuse.

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

The affidavits from the petitioner's friends mention having visits and social engagements with the petitioner and his wife, but they do not discuss any particular occasion in detail, or recount their observations of interactions between the petitioner and P-M-, or otherwise demonstrate their personal knowledge of the petitioner's relationship with his wife apart from the abuse.

The petitioner also submitted a letter from the Internal Revenue Service; a credit union account statement; photographs; a void credit union check; a suspension notice; utility, telecommunications, vehicle tax, and motor vehicle invoices; and a certificate of vehicle registration. The photographs are pictures of unidentified individuals on unspecified occasions and dates. The credit union account statement is for the period October to November 2004 and shows the petitioner and his wife's address, and lists the petitioner as a joint owner of the account, but the statement is in P-M-'s name only. The credit union account had a balance of only \$131, and showed only the withdrawal of \$23.96, indicating that the petitioner and his wife did not use the account for shared savings or joint expenses. While three of the notices are in both the petitioner's and his wife's names, the rest of the documents are in the petitioner's name only.

On appeal, the petitioner briefly declared in his personal statement that he spent time with P-M- and her children, and that he had the approval of an elderly friend of his and P-M-'s parents and children to marry P-M-. The petitioner recounted that they had a small wedding and reception, his wife's parents visited their home, and he attended a baby shower with his wife. The petitioner asserted that he and his wife had a shared account, but his wife was reckless with money so he handled their finances. The petitioner does not discuss how he first met P-M-, and gives only a brief account of their courtship and wedding, and a short description of their joint residence and shared experiences as a married couple.

The petitioner also submitted on appeal additional affidavits from Mr. and Mr. Mr. briefly stated that he spent time with the petitioner and P-M- while they dated and attended a party with them in March 2003, where he observed they were in love. Mr. declared that the petitioner and P-M- were in love and married in good faith, but he did not discuss in probative detail his observations of them at the March 2003 party or on any other occasion, or otherwise demonstrate his personal knowledge of the petitioner's relationship. While Mr. briefly stated that he attended numerous social events with the petitioner and that he stayed overnight in their apartment, he does not describe any of those events in probative detail.

On appeal, the petitioner also submitted copies of credit cards, driver's licenses, membership cards, a voter registration notice, a refund notice, cable and telecommunications invoices, and two credit union checking account statements. The credit union account statements reflect little activity and indicate that the petitioner and his wife did not use the account for shared savings or expenses. The remaining documents show that the petitioner and his wife shared a residence during their marriage, but they do not establish the petitioner's marital intentions. Without any probative account from the petitioner or his friends regarding the petitioner's entry into the marriage, documents that reflect a joint address are not sufficient to establish the petitioner's good faith in marrying his wife.

When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the petitioner entered into marriage with his wife in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act. He 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 his eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.