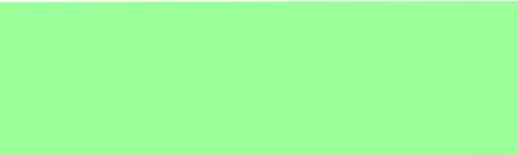




U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: Office: VERMONT SERVICE CENTER File: 

JUN 21 2013

IN RE: Self-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:

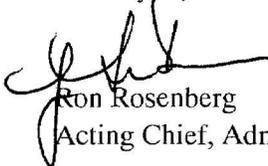
SELF-REPRESENTED

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 AAO inappropriately applied the law 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 in accordance with the instructions on Form I-290B, Notice of Appeal or motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** 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,



Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Vermont 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 had failed to establish that he entered into marriage with his wife in good faith and that he resided with her.

On appeal, the petitioner submits additional evidence.

*Applicable Law*

Section 204(a)(1)(A)(iii) of the Act provides, in pertinent part, 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:

(v) *Residence.* . . . The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser . . . in the past.

\* \* \*

(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 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.

\* \* \*

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together . . . . Employment records, utility receipts, school records, hospital or medical records, birth certificates of children . . . , deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

\* \* \*

(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 of Guyana who claims to have entered the United States on October 15, 2000, as nonimmigrant visitor. On August 30, 2006, the petitioner married a U.S. citizen in Connecticut. The petitioner filed the instant Form I-360 on August 15, 2011. The director subsequently issued a Request for Evidence (RFE) of, in pertinent part, the petitioner's good-faith entry into the marriage and that he and his spouse resided together. The petitioner timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director found the petitioner's response to the RFE insufficient and denied the petition accordingly.

The petitioner filed a timely appeal. On appeal, the petitioner does not provide a brief but submits a brief self-affidavit and an affidavit from a friend.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The petitioner has failed to overcome the director's grounds for denial and establish he resided with and married his wife in good faith. A full review of the record fails to demonstrate the petitioner's eligibility 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 his marriage in good faith. In an affidavit dated September 29, 2011, the petitioner stated that he met his wife while he was helping a friend move rugs. He reported that it was love at first sight and that he got her telephone number from his friend. The petitioner's wife came to visit him, and they went to restaurants and buffets while they were dating. The petitioner stated that he proposed at a friend's party and that they were married on August 30, 2006.<sup>1</sup> He indicated that he and his wife went to parks to watch cricket. The petitioner noted that at first they had a good relationship but things changed after his wife's trip to Puerto Rico. The petitioner did not describe in probative detail how he met his wife, their courtship, engagement, wedding, joint residence or any of their shared experiences, apart from the abuse.

The petitioner also submitted two affidavits from friends who briefly stated that they attended the petitioner and his wife's wedding and that they spent holidays together. These affidavits do not describe the visits in probative detail or provide any other substantive information regarding the affiants' observations of the petitioner's interactions and relationship with his spouse prior to and during their marriage. The director correctly concluded that these affidavits provided no specific information demonstrating that the petitioner married his wife in good faith.

In response to the RFE, the petitioner submitted another affidavit in which he repeated much of his first affidavit, and added that he planned a birthday party for his wife and that they celebrated their first anniversary with friends and family. The petitioner explained that he was unable to join his wife's insurance or open a joint account with her because he did not have a social security number or United States identification. The petitioner also submitted affidavits from four individuals who stated that they attended or were invited to the petitioner's wedding, his wife's birthday party, and their first year anniversary celebration, that they visited the petitioner and his wife at their house, and that the petitioner and his wife attended cricket games together. Again, none of these affiants provide probative details of how the petitioner met his wife, their courtship, engagement, wedding, joint residence or any of their shared experiences, nor do they describe their observations of the petitioner's interactions with or feelings for his wife during their courtship or marriage.

The petitioner submitted three leases listing he and his wife as the occupants of a residence on [REDACTED] in Waturbury, Connecticut. However, as the director noted, the signatures attributed to the petitioner's wife do not resemble her signature on their marriage certificate, and the leases do not provide information that indicates the petitioner's intentions in entering the marriage.

On appeal, the petitioner submits a short affidavit in which he explains that his wife took all of their documents and that the signatures on the leases he submitted were his wife's. The petitioner also submits an affidavit from a friend, [REDACTED] who was present when the petitioner met his wife and helped the petitioner get his wife's telephone number. [REDACTED] repeats some of what the petitioner reported in his previous affidavits, and adds that he saw the petitioner's wife pick him up and

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<sup>1</sup> On his Form I-360, the petitioner indicated that he married his wife on August 29, 2006.

heard them say “I love you” to each other. [REDACTED] also states that he attended their wedding and that he saw them kissing and hugging at cricket games.

While [REDACTED] affidavit submitted on appeal provides slightly more detail than previous submissions, and the petitioner’s affidavit explains the lack of documentary evidence, these affidavits are insufficient to establish the petitioner’s intentions upon entering into the marriage. Insofar as the director indicated that documentary evidence was necessary to meet the petitioner’s burden of proof, his determination is withdrawn. Traditional forms of joint documentation are not required to demonstrate a self-petitioner’s entry into the marriage in good faith. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204(c)(2)(i). Rather, a self-petitioner may submit “testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. . . . and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.” 8 C.F.R. § 204(c)(2)(vii). In this case, however, the testimonial evidence submitted does not demonstrate the petitioner’s entry into his marriage in good faith. In his affidavits and declarations, the petitioner briefly describes meeting his wife and their courtship, but does not describe their courtship, wedding, joint residence or any of their shared experiences in meaningful detail. Similarly, the affidavits from friends are general and do not discuss in probative detail their observations of the petitioner’s interactions with or feelings for his wife during their courtship or marriage. When viewed in the aggregate, the relevant evidence submitted below and on appeal does not demonstrate, by a preponderance of the evidence, 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.

*Joint Residence*

The relevant evidence submitted below and on appeal also fails to demonstrate that the petitioner resided with his wife. On the Form I-360, the petitioner claimed that he last lived with his wife on [REDACTED] in Connecticut, and that they resided together from August 2006 until “present.” In his affidavit dated September 29, 2011, however, the petitioner indicated that he moved in with his wife in October, 2006, and that he only resided with her until August 2008. In his affidavits, the petitioner does not describe their home(s) or shared residential routines in any detail, apart from the abuse. As discussed in the preceding section, although the petitioner submitted affidavits from friends indicating that the petitioner and his wife shared a joint residence and that they visited the petitioner and his wife at their home, they are not supported by any probative description of their observations of the petitioner’s and his wife’s shared residence or their visits there.

The petitioner also submitted three leases purportedly signed by himself and his wife. As the director noted, his wife’s signature on the leases does not appear to match her signature on the marriage certificate. The petitioner also submitted a letter from his landlord, but the landlord makes absolutely no mention of the petitioner’s wife or whether she resided with him. When viewed in the aggregate, the relevant evidence submitted below and on appeal does not demonstrate, by a preponderance of the evidence, that the petitioner resided with his wife, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

*Conclusion*

On appeal, the petitioner has failed to overcome the director's determinations that he did not establish the requisite entry into the marriage in good faith and that he resided with his wife. 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 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.