



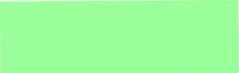
U.S. Citizenship  
and Immigration  
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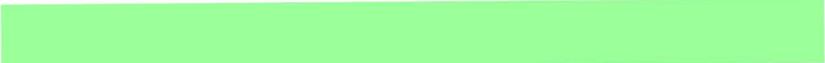
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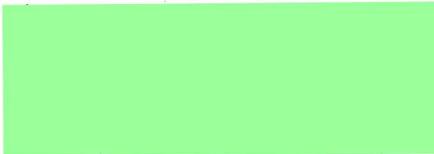
Office: VERMONT SERVICE CENTER

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:



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.

Thank you,

  
Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The 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 sustained.

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 former U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her former husband in good faith. On appeal, the petitioner, through counsel, submits a brief.

*Applicable Law*

Section 204(a)(1)(A)(iii)(I) 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.

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 further at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part, the following:

(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 standard and 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:

(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 Jamaica who states that she entered the United States as a nonimmigrant visitor on May 15, 2002. The petitioner married [REDACTED], a U.S. citizen, on February 4, 2010.<sup>2</sup> The petitioner filed the instant Form I-360 on February 2, 2011. The director subsequently issued two Requests for Evidence (RFE) of the petitioner's entry into marriage with her husband in good faith. The petitioner timely responded with additional evidence which the director found insufficient to demonstrate the petitioner's eligibility. The director denied the petition and the petitioner, through counsel, timely appealed.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon a full review of the record, the petitioner has overcome the director's ground for denial. The appeal will be sustained for the following reasons.

### *Good-Faith Entry into Marriage*

The relevant evidence in the record contains two self-affidavits, joint rent payment receipts, two joint bank statements, joint cable bills, joint utility bills, joint [REDACTED] electricity bills, letters from MetLife insurance to the petitioner and [REDACTED] photographs of the wedding and of other occasions, two affidavits from friend [REDACTED] and affidavits from friends [REDACTED]. The rent receipts indicate that the petitioner resided with [REDACTED] but do not establish that she married [REDACTED] in good faith. The joint bills and the life insurance documents are mostly dated after the petitioner stated that she separated from [REDACTED] and also fail to establish her marital intentions. Likewise, the bank statements are dated at the end of the petitioner's relationship with [REDACTED] and the month after they separated and as such have little evidentiary value. Further, these statements show minimal activity and do not demonstrate an intent to commingle finances or indicate that the petitioner and [REDACTED] used it for shared financial interests. The photographs show that the petitioner and [REDACTED] were photographed together at their wedding and on various, unidentified occasions but are insufficient to establish that the petitioner married [REDACTED] in good faith.

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

<sup>2</sup> In her affidavit submitted on appeal, the petitioner states that she is no longer married to [REDACTED] but no divorce certificate has been submitted.

Nonetheless, 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), 204.2(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." See 8 C.F.R. § 204.2(c)(2)(vii). In this case, the petitioner established that she married [REDACTED] in good faith by providing probative testimony regarding their courtship, engagement, wedding, joint residence, and shared marital experiences. In her first affidavit submitted in response to the first RFE, the petitioner stated that she met [REDACTED] at a parade, the two exchanged telephone numbers, and spoke on the telephone that same night. She stated that he came to her house the next night for dinner and that they began dating. The petitioner discussed their subsequent dates and described meeting his family. In the petitioner's second affidavit submitted in response to the second RFE, she offered a reasonable explanation for the lack of joint documents and provided a more detailed account of her shared marital experiences with [REDACTED] including their daily routines and weekend activities. The affidavits provided by the petitioner's friends in response to the second RFE all attested to spending time with the petitioner and [REDACTED] at their home, sharing meals together and witnessing how affectionate the petitioner and [REDACTED] were with each other. The affiants provided sufficient information establishing their personal knowledge of the relationship.

On appeal, the petitioner submits a third affidavit and a letter from [REDACTED]. In her affidavit, the petitioner reiterates why she does not have additional documents to show her good-faith marriage with [REDACTED]. She credibly explains the discrepancies between the two affidavits provided by her friend [REDACTED] who initially submitted an affidavit that mainly described [REDACTED] abusive treatment of the petitioner early in their relationship but later described having various pleasant interactions with the two as a couple. The letter from [REDACTED] though brief, describes meeting the petitioner, falling in love, and getting married for love. When viewed in the totality, the preponderance of the relevant evidence demonstrates that the petitioner 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 overcome the director's determination that she did not establish the requisite entry into the marriage in good faith. She is consequently eligible 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 been met. The appeal will be sustained and the petition shall be approved.

**ORDER:** The appeal is sustained.