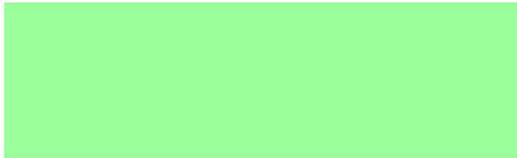




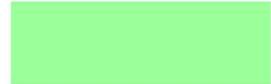
U.S. Citizenship  
and Immigration  
Services

(b)(6)

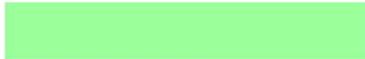


Date: **MAY 29 2013**

Office: VERMONT SERVICE CENTER File:

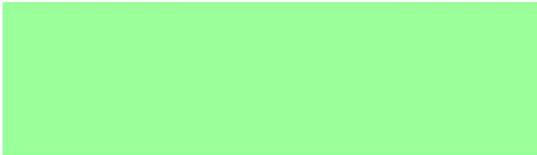


IN RE: Petitioner:



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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Acting 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 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 U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her husband in good faith.

On appeal, counsel submits additional evidence.

*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 are further explicated 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 further explicated 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.

#### *Pertinent Facts and Procedural History*

The petitioner is a citizen of Poland who entered the United States on January 27, 2010 with a nonimmigrant visitor visa. The petitioner married a U.S. citizen in Milwaukee, Wisconsin on July 7, 2010. The petitioner filed the instant Form I-360 on March 28, 2011. The director subsequently issued a Request for Evidence (RFE) of, *inter alia*, the petitioner's entry into the marriage in good faith. The petitioner, through counsel, timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and counsel 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 as supplemented on appeal establishes the petitioner's eligibility. The appeal will be sustained for the following reasons.

#### *Entry into the Marriage in Good Faith*

The relevant evidence submitted below and on appeal demonstrates the petitioner's entry into her marriage in good faith. The petitioner initially submitted: her own personal statement; photographs of her wedding ceremony; and a copy of a wedding card addressed to her and her husband. In the petitioner's affidavit, she provided a probative, detailed and credible account of how she first met her husband, their courtship, engagement, joint residence and shared experiences. In response to the RFE, the petitioner submitted: an affidavit addressing the issues raised in the RFE; a letter from her friend, [REDACTED] and a copy of another wedding card. The petitioner's friend, [REDACTED] discussed her observations of the petitioner's interactions with and feelings for her husband during their courtship. In her affidavit, the petitioner also discussed her feelings for her husband and explained that they lacked joint accounts because she did not have a Social Security Number.

In denying the petition, the director stated that the petitioner failed to submit sufficient evidence to establish that she married her husband in good faith. On appeal, counsel submits: an additional

statement from the petitioner; letters from the petitioner's friends, [REDACTED] and [REDACTED], and a letter from [REDACTED] director of family advocacy and support services with [REDACTED]. In the petitioner's third statement, she provided additional probative details of how she first met her husband, their courtship, engagement and wedding ceremony. The petitioner's friend, [REDACTED] discussed in detail how he introduced the petitioner to her husband, his observations of their courtship, and his visits to the couple's residence. [REDACTED] and [REDACTED] also discussed in detail their observations of the petitioner's interactions with and feelings for her husband during their courtship. [REDACTED] and [REDACTED], individuals who know the petitioner through her involvement in a domestic violence support group, explained how the petitioner described the feelings she had for her husband during their courtship.

A full review of the relevant evidence submitted below and on appeal establishes the petitioner's eligibility. The petitioner has submitted her own detailed, credible statements describing her good-faith entry into the marriage, detailed statements from her friends who have demonstrated their personal knowledge of the couple's relationship, and supporting statements from individuals who know the petitioner through her participation in a domestic violence support group. The petitioner has established by a preponderance of the evidence that she 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 established that she entered 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 now been met. Accordingly, the appeal will be sustained and the petition will be approved.

**ORDER:** The appeal is sustained.