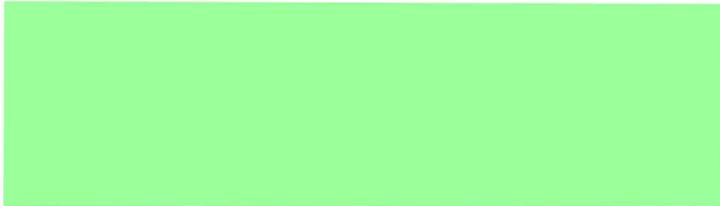


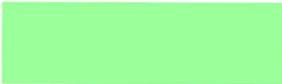


U.S. Citizenship  
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Services

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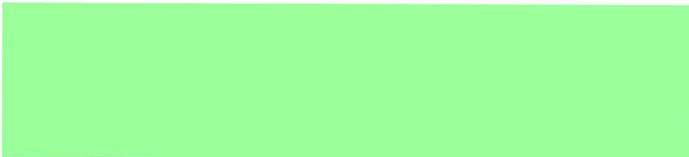


Date: **AUG 04 2014** Office: VERMONT SERVICE CENTER File: 

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 (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 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 for the petitioner’s failure to establish that he entered into marriage with his United States citizen spouse in good faith.

On appeal, the petitioner, through counsel, submits a brief and 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 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)(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.

### *Facts and Procedural History*

The petitioner, a citizen of Jamaica, married C-T-<sup>1</sup>, a United States citizen, on May 26, 2009 in Miami-Dade, Florida. He entered the United States on April 4, 2001 as a nonimmigrant temporary worker. The petitioner filed the instant Form I-360 on March 5, 2012. The director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's entry into marriage with C-T- in good faith. The petitioner timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner, through counsel, timely appealed.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon a full review of the record as supplemented, the petitioner has not overcome the director's ground for denial. The appeal will be dismissed for the following reason.

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

The director correctly determined that the petitioner failed to establish that he married C-T- in good faith. In response to the RFE, the petitioner submitted a personal affidavit and affidavits from friends [REDACTED] and [REDACTED]. In his affidavit, the petitioner briefly stated that he married C-T- because he loved her and not for any other reason. He provided an explanation for why they did not have other documents to show commingled finances but did not probatively describe how he met his wife, his decision to marry C-T-, their wedding ceremony, joint residence or any of their shared experiences, apart from the abuse. [REDACTED] and [REDACTED] all claimed to have encountered the petitioner and C-T- many times as a couple but none of them describe any particular visit or social occasion with the couple in probative detail or otherwise provide substantive information establishing their personal knowledge of the relationship.

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

The petitioner submitted the following relevant documents below and in response to the RFE: copies of joint bank statements; utility statements; an account statement from [REDACTED] telephone statements; a partial copy of a lease; a joint receipt; unsigned life insurance documents; a [REDACTED] card; and photographs. The submitted joint bank statements are all dated after the petitioner and C-T separated and one is dated after the two were divorced. The majority of the jointly addressed [REDACTED] telephone statements were also dated after the two were separated. Accordingly, these documents are insufficient to establish that the petitioner married C-T- in good-faith. The account statement from [REDACTED] and receipt show only that the petitioner and C-T- were both listed on the accounts. The partial copy of the lease and the life insurance documents are unsigned and as such have little probative value in demonstrating that the petitioner entered into his marriage in good faith. Likewise, the photographs show that the petitioner and C-T- were pictured together but do not establish that he married her in good-faith.

On appeal, counsel asserts that the director failed to give sufficient weight to the supporting affidavits and that the affidavits contained detailed accounts of the petitioner's relationship with his wife. Counsel further asserts that the director erred by rejecting credible evidence including the psychological evaluation by Dr. [REDACTED] Ph.D. Counsel argues that Dr. [REDACTED] in his evaluation, provided a two page discussion of the petitioner's courtship, marriage, and abuse suffered during his relationship with C-T-. While we do not question Dr. [REDACTED]'s professional expertise, his evaluation is based on his interview of the petitioner and does not provide further, substantive information regarding the bona fides of the petitioner's and C-T-'s marital relationship.

Counsel submits a second affidavit from the petitioner. In the petitioner's second affidavit he stated that he met C-T- at a casino in October or November of 2008 and that the two began seriously dating sometime in January of 2009. He stated when they met, they talked for hours and that C-T- taught him how to play the slot machines. The petitioner recounted that it became a regular thing to hang out with C-T- on the weekends and that he enjoyed spending time with her. Although he lists activities that the two did together and describes that they got along well, the petitioner does not provide sufficient detailed and probative information regarding his intentions in marrying C-T-. A full review of the evidence submitted below and on appeal fails to establish the petitioner's good-faith entry into the marriage, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

The petitioner has not overcome the director's ground for denial on appeal. He has not demonstrated that he entered into marriage with his U.S. citizen wife in good faith. Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the appeal will be dismissed and the petition will remain denied for the above-stated reason.

**ORDER:** The appeal is dismissed.