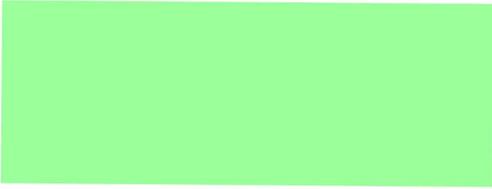


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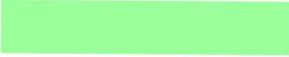
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

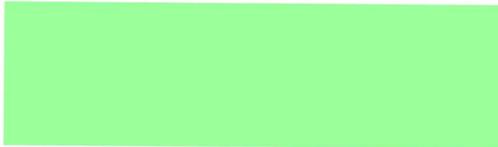


Date: **DEC 05 2014** Office: VERMONT SERVICE CENTER FILE: 

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:



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,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting 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 and the petition will remain denied.

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 spouse.

The director denied the petition on the basis of his determination that the petitioner failed to establish that she married her husband in good faith. On appeal, 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. 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:

(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 is a citizen of Pakistan who last entered the United States on January 17, 1999, as a nonimmigrant visitor. The petitioner married her husband, a U.S. citizen, on March [REDACTED] in New York. The petitioner filed the instant Form I-360 self-petition on July 8, 2011. The director subsequently issued a request for additional evidence (RFE) of the petitioner's good-faith entry into the marriage. The director found the petitioner's response to the RFE insufficient and denied the petition accordingly. On appeal, counsel submits a brief.

The AAO reviews these proceedings *de novo*. A full review of the record fails to establish the petitioner's eligibility for the following reasons.

Entry into the Marriage in Good Faith

The relevant evidence fails to demonstrate the petitioner's entry into her marriage in good faith. In her affidavit, the petitioner stated that she met her husband at a family wedding in September, 1998. She reported that he started visiting her at her sister's house, where she was staying, and that he proposed and they were married on March [REDACTED]. She indicated that they moved in together and that the first few years of marriage were good. She also stated generally that she went into the marriage with love and that she was committed to her husband. In her affidavit submitted in response to the RFE, the petitioner indicated that her husband is her first cousin, and that she knew of him before they met at the wedding, but did not remember meeting him before. She added that she and her husband talked at family gatherings and that after he proposed, they had family dinners and shopping trips together. She recalled that she started to like her husband, and that her children approved of him, so she agreed to his proposal and they were married. There was a modest party at her brother in law's home following the ceremony. After they were married they went to the mall, attended family gatherings, and went grocery shopping. The petitioner did not describe in probative detail how the couple's courtship, engagement, wedding, or any of their shared experiences, aside from the abuse. The petitioner also did not probatively describe her feelings for her husband and her intentions upon entering her marriage.

The petitioner also submitted affidavits from family and friends. [REDACTED] indicated that the petitioner and her husband were married, and that they attended the wedding. [REDACTED] and [REDACTED] stated that the petitioner and her husband were married. The remainder of their affidavits primarily discussed the abuse. [REDACTED] recalled that the petitioner and her husband attended her wedding on September 6, 1998. In response to the RFE, the petitioner submitted another affidavit from [REDACTED] in which she indicated that the petitioner's husband visited her house and was at family gatherings such as barbeques and shopping trips. She recalled that the petitioner told her that her husband liked the same things as her, was good to her children, and upheld her culture and religion. She also confirmed that she and her husband hosted a dinner party after the petitioner's wedding ceremony and that after the wedding she visited the petitioner and her husband and that the petitioner was happy. She indicated that she believed the feelings the petitioner had for her husband were genuine. [REDACTED] stated that he believes the petitioner had the best intentions when she married her husband, but does not explain his basis for that belief. None of the affiants provided any substantive information regarding their observations of the petitioner's interactions and relationship with her husband prior to and during their marriage, nor did they provide any probative information regarding the petitioner's good faith in entering the marriage. The director correctly concluded that these letters provided no specific information demonstrating that the petitioner married her husband in good faith.

The petitioner also submitted photographs of herself and her husband at their wedding and on a few other unspecified occasions. She submitted a copy of a life insurance application and joint checking account statements showing that a premium was paid. However, the statements do not show that the petitioner and his wife both used the account as they show little activity and it appears that the statements largely covered periods when the petitioner's husband was living in Pakistan. The petitioner submitted income tax vouchers from 2002 addressed to the petitioner and her husband, but other evidence in the record shows that the petitioner's husband filed his income taxes as "single" in 2000, the year after he and the petitioner were married. The petitioner submitted three greeting cards that her husband signed and sent to her, but while the cards may reflect her husband's intentions, they do not provide insight into the petitioner's motivations for entering into the marriage. The petitioner also submitted a phone statement showing calls to Pakistan in 2001, but there is no name or address listed on the statements. The petitioner submitted a lease, but the lease does not provide any specific information regarding the petitioner's intentions in entering her marriage. This evidence, without probative testimony, is insufficient to establish the petitioner's intentions upon entering into the marriage. In her affidavits, the petitioner briefly describes meeting her husband and states that they were married, but does not describe their courtship, wedding, joint residence or any of their shared experiences in meaningful detail. Similarly, the pictures, lease, statements and tax vouchers do not demonstrate the petitioner's interactions with or feelings for her husband during their courtship or marriage. When viewed in the aggregate, the relevant evidence does not demonstrate, by a preponderance of the evidence, 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.

On appeal, counsel contends that the director made errors in his decision because not all of the bank

statements submitted showed the payments of insurance premiums, the petitioner submitted a letter from her husband's brother and not just her family members, and a discharge summary for the petitioner's husband indicates that he will be returning to his "residence: wife/ [REDACTED]." Counsel further asserts that the petitioner provided much of the evidence that U.S. Citizenship and Immigration Services (USCIS) typically requests to establish a bona fide marriage. Although the director made minor errors in his decision,¹ these oversights have not prejudiced the petitioner. The AAO has reviewed all of the relevant evidence on appeal, and as explained above, the record is insufficient to show that the petitioner married her husband in good faith. The petitioner did not present any further evidence for consideration on appeal. Accordingly, the record here is insufficient to show that the petitioner entered into marriage with her spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

On appeal, the petitioner has not established that she entered into her marriage in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BLA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

¹ Although moot, the petitioner's husband's brother is the petitioner's cousin, so the director was correct in stating that the affidavits the petitioner provided were from members of her family.