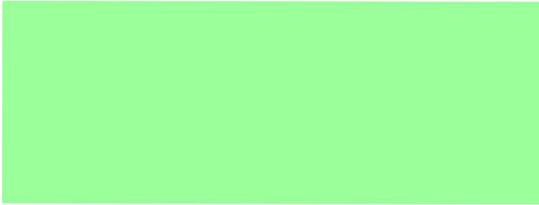


(b)(6)

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



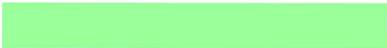
U.S. Citizenship  
and Immigration  
Services



Date: **DEC 22 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 cursive script, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting Vermont Service Center Acting 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 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 married her spouse in good faith. The petitioner submits a timely appeal.

*Relevant Law and Regulations*

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.

### *Pertinent Facts and Procedural History*

The petitioner was born in Thailand, and last entered the United States as a nonimmigrant student on [REDACTED]. The petitioner married A-M-<sup>1</sup>, a U.S. citizen on [REDACTED]. The petitioner filed the instant Form I-360 on [REDACTED]. The director subsequently issued a Request for Evidence (RFE) of the petitioner's good-faith entry into her marriage. The petitioner responded with additional evidence that the director found insufficient and the director denied the petition. On appeal, we review these proceedings *de novo*.

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

In her affidavit dated February 26, 2013, the petitioner stated that she first met A-M- at a party in the summer of 2008. The petitioner then indicated that they dated for almost a year before A-M- proposed to marry her. She cursorily stated that she loved A-M-, wanted a family, and accepted his offer of marriage. She indicated that after they were married they wanted to travel to Thailand to have a small wedding. She stated that they were married in [REDACTED] and shortly thereafter A-M- moved into her apartment at [REDACTED] in [REDACTED] California. She recounted that A-M- was arrested a few months after they were married and that in [REDACTED] they moved into A-M-'s mother's home on [REDACTED]. She stated that in March 2012, she and A-M-'s mother moved to Live [REDACTED] and A-M- went back to prison. The petitioner provide no details regarding how she met A-M-, his proposal, their courtship and wedding ceremony, or other information to establish her good-faith intent in marrying A-M-.

In response to the RFE, the petitioner provided a second statement in which she further described meeting A-M- while visiting her friends, [REDACTED] and being invited to party at the home of [REDACTED]. The petitioner recounted that A-M- talked to her about growing up in Los Angeles, California, that she gave him her telephone number, but "did not feel love at first sight." The petitioner stated that A-M- called her "some time" after the party and that they began dating. She referred to restaurants where they went on dates, briefly described meeting each other's friends, and visiting the homes of their friends. She noted that she met A-M-'s mother, [REDACTED] in November 2008 and that when A-M- proposed to her in June 2009, she was in love and accepted his offer. The petitioner indicated that they bought wedding rings and were married at the courthouse

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

in [REDACTED] which she claimed was “one of the happiest days” of her life. The petitioner then explained why she did not have car insurance and a bank account with A-M-, and she explained the joint Wells Fargo bank account they opened in [REDACTED]. She generally claimed that her marriage to A-M- was “true and real.” The petitioner, however, only briefly described a few shared experiences with A-M-, and did not discuss in probative detail the first time she met A-M-, her courtship and subsequent engagement, marriage ceremony, marital residence, joint belongings, dinners she and A-M- spent together and with their friends and Ms. [REDACTED] or other shared experiences with A-M-, apart from the abuse.

In addition to her affidavits, the petitioner provided affidavits from Ms. [REDACTED] Ms. [REDACTED] recounted that A-M- mentioned to her that he met someone from Thailand at a party and first met the petitioner when A-M- invited the petitioner to her home for dinner before Thanksgiving. She stated that during the visit the petitioner talked about her family in Thailand. Ms. [REDACTED] indicated that she had other dinners with the couple, who she generally claimed “looked happy and comfortable together,” but did not further describe any of these shared occasions. She claimed that in June 2009, the petitioner and A-M- were “happier than usual” and told her of their engagement, intent to have a simple wedding ceremony in the summer, and a later wedding in Thailand. Ms. [REDACTED] stated that the couple moved in with her in February 2011, but apart from the breakdown in the marriage, Ms. [REDACTED] general statements provided no detailed, probative information to demonstrate the petitioner’s relationship with A-M- and intentions in marrying.

The petitioner also submitted affidavits from her friends. In the affidavits dated February 26, 2013 and November 22, 2013, [REDACTED] stated that she has known the petitioner for several years and was present when the petitioner and A-M- first met at a party in the summer of 2008. She generally claimed that the petitioner “looked happy” when she mentioned that she had been on a few dates with A-M- and that the petitioner and A-M- were a “very happy couple” when she saw them at dinners at the [REDACTED] home. She claimed that the petitioner and A-M- “had become very close,” and in July 2009 the petitioner mentioned that she was going to marry A-M-. These general statements provide no detailed substantive information regarding the first time the petitioner met A-M-, her courtship and subsequent engagement, marriage ceremony, and her good-faith intentions in marrying.

Similarly, in his affidavits, [REDACTED] stated that he has known the petitioner since 2005, and he generally recounted that in October 2008 the petitioner “sounded very happy,” and told him that she met A-M- at a party and had been on a date with him and intended to go out with him again. Mr. [REDACTED] stated that he first met A-M- around Christmas, and claimed that the petitioner and A-M- “looked very comfortable with each other.” Mr. [REDACTED] indicated that the petitioner claimed that she had “fallen in love” with A-M- and that she and A-M- intended to get married but did not have much money for a ring because they wanted to have a wedding reception in Thailand and a small reception in the United States. He generally claimed that the petitioner “was very excited” about getting married but that he was not able to attend her wedding. Mr. [REDACTED] statements offer no detailed substantive information to establish the petitioner’s relationship with A-M- and good-faith marital intent.

In his affidavits, Mr. [REDACTED] stated that he has known the petitioner for several years and that he first met A-M- in December 2008 when the petitioner and A-M- came to his restaurant for dinner. He

indicated that the couple dined at his restaurant every couple of weeks, and that he would go with them to [REDACTED] for drinks. He generally claimed that he saw “how much they cared for and grew to love each other,” and that the petitioner mentioned that A-M- “was like her new family.” Mr. [REDACTED] cursorily stated that in the summer of 2009 the couple was “very excited” and the petitioner showed her ring and told him they were getting married. He indicated that the petitioner declined his offer to have a wedding reception at his restaurant because she intended to have a small party in Thailand. Beyond his general observations of the petitioner and A-M- and a few shared experiences, Mr. [REDACTED] provided no detailed probative information to demonstrate the petitioner’s relationship with A-M- and good-faith marital intent.

In her affidavits dated February 7, 2011 and November 22, 2013, [REDACTED] stated that she introduced the petitioner to A-M-, that the petitioner and A-M- “seemed to hit it off” and talked for a long time. Ms. [REDACTED] recounted that after the petitioner and A-M- started dating, she invited the couple to parties and dinners at her home, and she generally claimed that they “seemed very comfortable with each other.” Ms. [REDACTED] indicated that she was a witness at the couple’s marriage ceremony, that they “looked so happy,” and that she “could tell they loved each.” Similarly, in her affidavit dated January 23, 2011, Ms. [REDACTED] stated that A-M- is a friend of her daughter, [REDACTED]. She recounted that A-M- was at a party at Ms. [REDACTED] home and first met the petitioner there. She stated that A-M- and the petitioner and A-M- have been together since 2008, have been married for more than a year, and that they are a “very happy loving couple.” The general statements of Ms. [REDACTED] and Ms. [REDACTED] provide no detailed probative information regarding the petitioner’s courtship and subsequent engagement, marriage ceremony, and her good-faith intent in marrying A-M-.

The petitioner also submitted photographs of herself and A-M-, but the photographs are undated and she does not describe the significance of the events in the pictures. She also provided a joint Wells Fargo Bank account application for a checking and a savings account in the name of the petitioner and A-M- but which provided no information regarding account transactions; an Automobile Club of Southern California (AAA) membership renewal bill; a letter from AAA affirming that the petitioner became a member in [REDACTED] but added A-M- to her membership on [REDACTED]; Farmers Insurance Group policy documents in the petitioner’s name and which show that A-M- is restricted from the policy’s coverage; and a Farmers Insurance Group letter stating that A-M- does not have a driver’s license and therefore was excluded from the policy. She also provided copies of envelopes and a Southern Edison bill and a document showing payment history. Although these documents indicate a shared residence during their marriage, they provide insufficient probative information of the petitioner’s intentions in marrying A-M-. The petitioner also provided a psychological examination from [REDACTED] MFT, FSICPP, but his letter primarily addressed the abuse in the petitioner’s marriage and not the petitioner’s marital intentions.

On appeal, the petitioner states that the director made statements implying that the petitioner had sufficiently established her good-faith marital intent. Under the “preponderance of the evidence” standard, the petitioner is not relieved from satisfying the basic evidentiary requirements required by the statute and regulations. The petitioner must prove by a preponderance of the evidence that he or she is eligible for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010).

The truth is to be determined not by the quantity of evidence alone but by its quality. *Id. at 376.* Although the director indicated that the record contained a “substantial amount of evidence” and the director noted that the declarations were “consistent with each other regarding when and how” the petitioner met A-M-, the director ultimately determined that when viewed in the totality, despite the quantity of evidence submitted, the preponderance of the evidence failed to demonstrate the petitioner’s good-faith intent at the time of her marriage.

The petitioner further asserts that the director concluded that the declarations from the petitioner’s friends and Ms. [REDACTED] “lacked certain details” and “gave minimal support” to establish her good-faith marital intent. The petitioner contends that the declarations provided a specific detailed account of the petitioner’s marriage, and that the director should have taken the “factual contentions in the declarations as true,” and regarded any lack of detail to the passage of time since the occurrence of events or inability to recall specific details. The petitioner further argues that she lacks joint documentation due to A-M-’s abusive behavior. However, traditional forms of joint documentation such as joint bank accounts are not required to demonstrate a self-petitioner’s entry into the marriage in good faith. 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). 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.” *See* 8 C.F.R. § 204.2(c)(2)(vii). In this case, the petitioner has not provided a detailed description of her relationship with A-M-. Her cursory statements do not probatively describe in detail her first meeting with A-M-, their courtship and engagement, wedding ceremony, joint residence, and shared experiences. Similarly, the affidavits submitted on her behalf lack detailed, substantive information to establish the petitioner’s relationship with A-M- and good-faith intent. In making a decision on a self-petition the determination of what evidence is credible and the weight to be given that evidence is within the sole discretion of the U.S. Citizenship and Immigration Services (USCIS). Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Although the petitioner claims that the director focused only on the conduct of herself and A-M- after they were married, the director’s RFE and denial letter fully addressed the petitioner’s evidence, which included the conduct of the petitioner and A-M- prior to their marriage.

We have reviewed the full record and the brief on appeal *de novo*. The petitioner has failed to demonstrate, by a preponderance of the relevant evidence, that she entered into marriage with A-M- 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 the marriage with A-M- in good faith. The petitioner is consequently ineligible for immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Act and her petition must be denied.

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 Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. at 375. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.