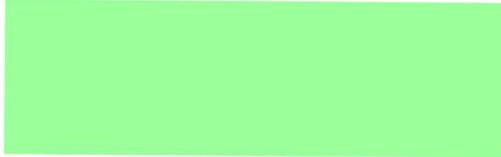


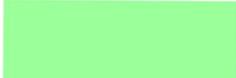
(b)(6)

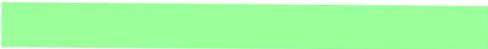


U.S. Citizenship
and Immigration
Services



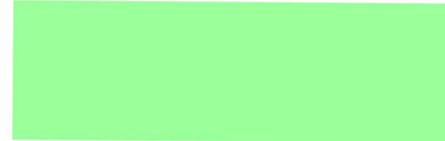
Date: **DEC 23 2014**

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,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director of the Vermont Service Center (the director) denied the immigrant visa petition (Form I-360) 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 entered into the marriage in good faith. On appeal, the petitioner submits a brief.

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 states, in pertinent part, that:

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 explained 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 Liberia who entered the United States on October 2, 1991 with a C-1 nonimmigrant visa. The petitioner married S-W-¹, a U.S. citizen, on April [REDACTED] and she filed this Form I-360 petition on November 23, 2012. The director denied the petition on December 20, 2013, for failure to establish good-faith entry into the marriage. The petitioner filed a timely appeal. The petitioner indicates on appeal that she lived in her home with S-W- for three months before moving out due to physical abuse, and that police report, photograph, electric bill, auto and health insurance, and affidavits, including an affidavit from the daughter of S-W- with whom she continues to have a step-daughter relationship, establish her good-faith entry into marriage.

Entry into the Marriage in Good Faith

We review these proceedings *de novo*. Upon a full review of the record, the petitioner has not overcome the director's ground for denial. The appeal will be dismissed for the following reasons.

The director correctly determined that the petitioner did not establish that she married her spouse in good faith. The petitioner states, in pertinent part, in an affidavit dated January 25, 2012 that she met her husband around April [REDACTED] she fell in love with him quickly, and that when they married a week later she felt it was her destiny. She states that her husband moved into her home on [REDACTED] at the end of May [REDACTED] and that they lived together in the home until August [REDACTED] when she moved out due to a domestic violence incident. The petitioner's mother indicates, in pertinent part, in a May 22, 2011 affidavit, that the petitioner thought she found the love of her life when she married S-W-, only to soon realize that her husband was a physical and mental abuser. [REDACTED] states in an undated statement that she has known the petitioner for over 12 years, and that she met the petitioner's spouse at the couple's home on [REDACTED] on May [REDACTED]. Specifically, she states that she was getting her hair done at the petitioner's house on that day and the petitioner introduced S-W- as her husband, stating that they were recently married. [REDACTED] indicates in her two statements, dated October 14, 2013, that: she is the daughter of the petitioner's husband; she met the petitioner at the couple's home on [REDACTED] (she does not remember the date); upon meeting her, she could see that the petitioner loved S-W-; and the petitioner took her to get a pet on one occasion, and took her Christmas shopping on another occasion. Affidavits from the applicant's brother, uncle and sister do not mention or discuss the

¹ Name withheld to protect individual's identity.

petitioner's marriage or her relationship with her spouse. A police report also contains no discussion or information about the petitioner's marriage or relationship with S-W-.

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. Here, the petitioner's statement lacks detailed information regarding the couple's courtship, wedding ceremony, or shared residence and experiences, and it provides no specific information regarding her relationship with S-W- and her intentions for marrying him. The affidavits and statements from the petitioner's mother, from [REDACTED] also lack substantive information regarding the petitioner's relationship with S-W- prior to their marriage or regarding the petitioner's marital intentions. In addition, although [REDACTED] indicate that they visited the couple at their house, they describe no interactions with the couple that would establish personal knowledge of the relationship. The affidavits and statements therefore fail to demonstrate the petitioner's good-faith entry into her marriage with S-W-.

The 2011 and 2012 electric bills, the copy of the apartment lease, and auto insurance evidence reflecting that the petitioner was listed as a driver on S-W-'s auto insurance policy between July 2009 and February 2010, all lack probative value of the petitioner's good faith entry into her marriage, as this evidence is dated after her August [REDACTED] separation from S-W-. Additionally, the electric bills and the apartment lease are in the petitioner's name only. The petitioner submitted a medical insurance page reflecting that she received medical treatment between July [REDACTED] and July [REDACTED] as well as a separate medical insurance page indicating that S-W- is a primary medical insurance holder whose spouse is included on his policy. This evidence also lack probative value of the petitioner's good faith entry into her marriage, as the pages do not list the petitioner by name as the spouse of S-W. The wedding pictures show the petitioner and S-W- together but shed no light into the petitioner's marital intentions. Overall, the record does not establish, by a preponderance of the evidence, the petitioner's good-faith entry into the marriage, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

In these 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 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met.

ORDER: The appeal is dismissed.