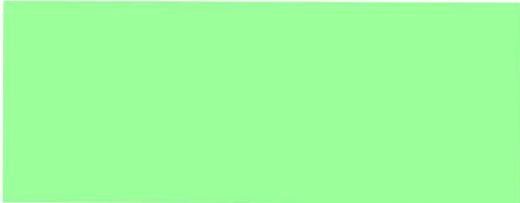




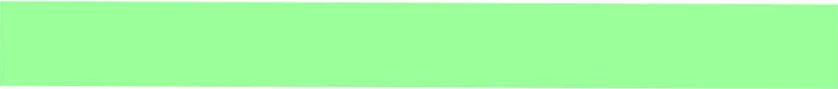
U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: NOV 24 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)

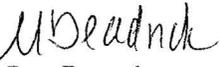
ON BEHALF OF PETITIONER:



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.

Thank you,

  
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 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 married her husband in good faith. On appeal, counsel submits a brief and additional evidence.

### *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, a citizen of the Philippines, entered the United States on June 13, 2000 as a nonimmigrant visitor. The petitioner married G-P-<sup>1</sup>, a U.S. citizen, on April [REDACTED] in [REDACTED], Nevada. G-P- filed an immigrant visa petition on behalf of the petitioner, which was subsequently denied. The petitioner filed the instant Form I-360 self-petition on March 5, 2012. The director subsequently issued a request for evidence (RFE) of the petitioner's good-faith entry into the marriage, among other issues. The petitioner timely responded with further evidence, which the director found insufficient to establish her eligibility. The director denied the petition and counsel timely appealed.

We review these proceedings *de novo*. On appeal, the petitioner has overcome the director's ground for denial for the following reasons.

*Entry into the Marriage in Good Faith*

In her first personal affidavit, dated April 16, 2012, the petitioner briefly stated that she met G-P- in a Filipino restaurant, and married him in April [REDACTED]. The petitioner indicated that during their courtship, G-P- gave her flowers, and they went out to eat, but did not provide any additional probative information regarding the commencement of their relationship. However, the petitioner did provide a lease in the names of her and G-P- for a residence on Thelma Lane starting in June 2003 and federal income tax returns for [REDACTED] in both names showing a filing status of "Married filing jointly." In addition, the petitioner provided documentation of a joint checking account from December [REDACTED] and further documentation showing the account was overdrawn in July 2003. She also submitted documentation of the couple's unsuccessful attempts to open additional joint accounts in 2004 and 2005. In addition, the petitioner provided several utility and telephone bills from 2005 in both her and G-P-'s names, and unlabeled photographs of the petitioner, G-P-, and the petitioner's children on several occasions.

In response to the RFE, the petitioner submitted an additional affidavit further describing the abusive aspects of her relationship with her husband, and briefly stated that at the beginning of their marriage, she and her husband went to parks with her kids and watched movies together. The petitioner also provided an affidavit from her friend, [REDACTED] dated June 16, 2013. In the affidavit Ms.

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

attested to witnessing the marriage ceremony, but did not provide probative testimony about the event. In addition, the petitioner submitted an affidavit from her nephew, dated June 18, 2013. Mr. attested to residing with the petitioner and G-P- from December 2005 through May 2006. Mr. described some of the petitioner's and G-P-'s shared experiences in the home they shared, including backyard barbecues. He also indicated that G-P- helped the petitioner's children with computer games.

In her decision, the director found that the relevant evidence did not satisfactorily establish that the petitioner married G-P- in good faith and denied the petition. On appeal, the petitioner submits an additional personal affidavit, dated August 19, 2013, in which she provides detailed testimony regarding her and G-P-'s courtship and shared experiences beyond the abuse. She also provides probative information regarding her and G-P-'s unsuccessful attempts to open a joint bank account due to G-P-'s credit history.

In addition to her own affidavit, on appeal, the petitioner submits affidavits from her daughter and son, now at least 21 years of age. In her affidavit dated August 15, 2013, the petitioner's daughter refers to G-P- as her "stepfather," and attests to residing with him for approximately four years. She states that at the beginning of the relationship, G-P- was nice to her brothers and spent time with them at home, before turning to discuss incidents of abuse. She asserts that despite his behavior, she and her brothers treated G-P- with respect because he was their stepfather. The petitioner's son, in an affidavit dated August 15, 2013, describes the beginning of the petitioner's relationship with G-P-, indicating that G-P- gave him video games and consoles, before his behavior became abusive.

On appeal, the petitioner also submitted additional copies of utility and telephone bills in the names of her and G-P-, their joint federal income tax returns for 2002 through 2006, a lease in both their names, and documentation regarding their unsuccessful attempts to obtain a joint bank account. In addition, the petitioner submitted correspondence from the Internal Revenue Service (IRS) regarding the couple's 2005 joint tax return, rent receipts, cable television bills in both names, and a 2002 certificate of business form signed by both the petitioner and G-P-.

*De novo* review of the relevant evidence submitted below, and the additional evidence provided on appeal, establishes that the petitioner entered into marriage with G-P- in good faith. In her decision, the director emphasized that the evidence did not demonstrate that the petitioner and G-P- commingled their finances or shared common marital responsibilities. 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. All credible relevant evidence will be considered." 8 C.F.R. § 204.2(c)(2)(vii). Here, the petitioner's affidavit submitted on appeal contains credible statements regarding her and G-P-'s courtship, shared residences and experiences. Her statements are also supported by substantial documentation including jointly filed federal income tax returns, a lease, numerous bills in both names, and third-party affidavits. The petitioner has established by a preponderance of the evidence that she married her spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

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. 369, 375 (AAO 2010). *De novo* review of the record, as supplemented on appeal, establishes that the petitioner has met this burden. Because she has established her eligibility for immigrant classification under section 204(a)(1)(A)(iii) of the Act, the appeal will be sustained and the petition will be approved.

**ORDER:** The appeal is sustained.