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U.S. Citizenship
and Immigration
Services

Date: **OCT 09 2014** Office: VERMONT SERVICE CENTER File: [REDACTED]

IN RE: Self-Petitioner: [REDACTED]

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:

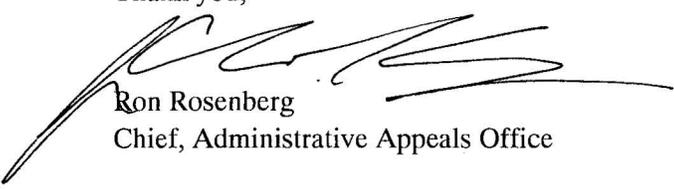
SELF-REPRESENTED

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 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 his U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with his wife in good faith.

On appeal, the petitioner submits 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 for a self-petition for immigrant classification 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.

Pertinent Facts and Procedural History

The petitioner is a citizen of Tanzania who entered the United States on May 21, 2008, as a nonimmigrant visitor. The petitioner married L-F-¹, a U.S. citizen, in Wichita, Kansas on August [REDACTED]. The petitioner filed the instant self-petition (Form I-360) on January 4, 2012. The director subsequently issued two Requests for Evidence (RFE) of, among other things, the petitioner's entry into marriage with L-F- in good faith. The petitioner, through former counsel, timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner timely appealed.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A full review of the record, including the evidence submitted on appeal, fails to establish the petitioner's eligibility. The appeal will be dismissed for the following reasons.

Entry into the Marriage in Good Faith

The director correctly determined that the petitioner failed to establish that he married L-F- in good faith based on the relevant evidence submitted below. A single energy bill relates to a time period beginning March 6, 2009, an ending September 4, 2009, which was two months after the petitioner stated they separated. The partial copy of a residential lease is for approximately a one-month term beginning October 9, 2008 and ending on November 30, 2008 and does not contain a signature page.

Regardless of these deficiencies, 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." See 8 C.F.R. § 204.2(c)(2)(vii). In his first affidavit, the petitioner stated that he

¹ Name withheld to protect the individual's identity.

married L-F- on August 28, 2008, and that they lived together until July of 2009 when she moved out. He did not describe in any detail their courtship, wedding ceremony, shared residence and experiences apart from the abuse. In his second affidavit, the petitioner stated that at the time he met L-F-, he resided with his brother but moved in with her after they were married. The petitioner provided explanations for why he did not have any joint accounts, assets with L-F-, or photographs of the two of them together. The petitioner did not, however, provide any substantive information about his relationship with L-F- to demonstrate his good-faith marital intentions. The letters from the petitioners' friends and L-F- submitted below also did not contain probative details regarding the petitioner's intentions in marrying L-F-. [REDACTED] stated that the petitioner's marriage to L-F- was truthful and legal. [REDACTED] L-F-'s daughter, stated that in her opinion, the petitioner's marriage to her mother failed because they argued too much and were better off as friends. Neither described any particular visit or social occasion in probative detail or otherwise provided detailed information establishing their personal knowledge of the relationship. In her brief letter, L-F- stated that she and the petitioner care for each other but that their marriage did not work out because they fought too much. L-F-'s letter shows her own perspective of her relationship with the petitioner but did not provide any insight regarding the petitioner's intentions upon marrying her.

On appeal, the petitioner submits a second letter from L-F- who states that she is currently seeking psychological help to improve her temper and her marriage with the petitioner. She states that they love each other and that their marriage is in good faith. L-F-'s letter does not, however, provide any probative details that adequately address the petitioner's own marital intentions. The petitioner did not submit an additional personal statement on appeal and his affidavits submitted below did not provide any information about his courtship, wedding ceremony, shared residence and experiences with his wife apart from her abuse. The letters from Mr. [REDACTED] and Ms. [REDACTED] failed to provide relevant, substantive information and did not show that the authors had any personal knowledge of the relationship. The letters from L-F- also failed to provide probative details about the petitioner's good-faith marital intentions. When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the petitioner entered into marriage with his wife in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

On appeal, the petitioner has not demonstrated that he entered into marriage with his wife in good faith. He 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 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.