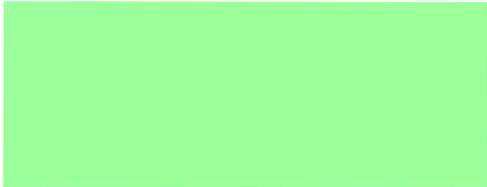




U.S. Citizenship  
and Immigration  
Services

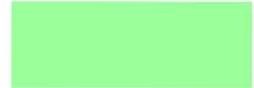
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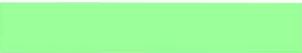
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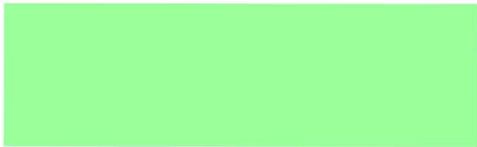
IN RE:

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,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The 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.

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 former U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her former husband in good faith and they jointly resided together.

On appeal, the petitioner 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.

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].

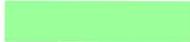
The eligibility requirements are further explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(v) *Residence.* . . . The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser . . . in the past.

\* \* \*

(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:



*Evidence for a spousal self-petition –*

(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.

\* \* \*

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together . . . . Employment records, utility receipts, school records, hospital or medical records, birth certificates of children . . . , deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

\* \* \*

(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 Trinidad and Tobago who entered the United States on February 4, 1994 as a nonimmigrant student. The petitioner married E-B-, a U.S. citizen, on May [redacted] in [redacted] Florida.<sup>1</sup> The petitioner filed the instant Form I-360 on May 14, 2012. Her marriage to E-B- terminated in a divorce on May [redacted]. The director issued a Notice of Intent to Deny (NOID) of, among other things, the petitioner's good-faith entry into the marriage and her residence with her husband. The petitioner, through counsel, responded to the NOID with additional evidence, which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner filed a timely appeal.

We conduct appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A full review of the record fails to establish the petitioner's eligibility. The petitioner's claims and the additional evidence submitted on appeal do not overcome all of the grounds for denial. The appeal will be dismissed for the following reason.

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

*Joint Residence*

On the Form I-360, the petitioner stated that she lived with E-B- from November 2010 until December 2011 and their last joint residence was on [REDACTED] Florida. The petitioner submitted a health insurance card and health insurance statements, a car insurance policy, a utility bill and bank statements, addressed to both her and E-B- at the [REDACTED] residence. The petitioner also provided a life insurance statement addressed to her at the [REDACTED] residence and a change of address confirmation from an investment fund addressed to E-B- at the same residence. On appeal, the petitioner submits similar evidence, including a letter from the [REDACTED] Water Utilities Department stating that she and E-B- had a joint account from June 16, 2011 until after their separation. The petitioner also submits on appeal affidavits from her parents, [REDACTED] her children's grandmother, [REDACTED] and her friends, [REDACTED] who discuss in probative detail their interactions with the petitioner and E-B- while visiting the couple's residence. She also submits affidavits from her neighbors, [REDACTED] who provide substantive details of witnessing the couple's joint residence in their neighborhood. Accordingly, the record establishes that the petitioner resided with her former husband, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

*Entry into the Marriage in Good Faith*

Although the petitioner established that she jointly resided with E-B-, the relevant evidence submitted below and on appeal fails to demonstrate the petitioner's entry into her marriage in good faith. In her statement dated April 9, 2012, the petitioner recounted that she resided in the United States with her boyfriend, R-J-, from February 1994 until their separation in December 2006.<sup>2</sup> She stated that she and R-J- had a son together during that time. The petitioner recounted that she and E-B- met in 2006 at a Christmas party and they started dating in April 2007. She stated that E-B- helped her raise her son from her prior relationship with R-J-. The petitioner recounted that she ended her relationship with E-B- in October 2009 when he became jealous because R-J- came to her son's third birthday party. She stated that she began dating R-J- again and she became pregnant with her second child with him. Without providing any further details about resuming their relationship, the petitioner then stated that in February 2010, E-B- proposed to her and they had a "simple" wedding in May 2011. She stated that they moved into a home on [REDACTED] Florida, which is the home she previously resided in with R-J-. Her second child with R-J- was born on July 20, 2010. The remainder of the petitioner's statement focuses on the abuse in her marriage. In response to the NOID, the petitioner submitted an affidavit, dated November 22, 2013, in which she stated that she purchased a property with R-J- in 2010 and he resided at that property while she resided with E-B- at the home she previously owned with R-J- on [REDACTED]. She stated that she does not have financial documentation with E-B- because of his poor credit history. The petitioner did not probatively describe how she first met E-B-, their courtship, wedding, or any of their shared experiences, apart from the abuse.

The petitioner submitted letters from her friends, [REDACTED] and her priest, [REDACTED] only focused on

<sup>2</sup> Name withheld to protect the individual's identity.

abuse in the marriage and did not discuss the petitioner's good-faith entry into the marriage in any substantive detail. [REDACTED] stated that the petitioner had a bona fide relationship with E-B-, but did not describe ever having any personal interactions with the couple. [REDACTED] stated that she visited the couple at their home for social events. However, she did not describe any event or other social interaction with the couple in any probative detail. [REDACTED] both briefly stated in their identical affidavits that they met E-B- during events at their retirement community. However, neither of them describes any particular social event with the couple in any detail. Swami [REDACTED] recounted in a one-sentence statement that he was introduced to E-B- in 2010; but he failed to further discuss this first meeting or his interactions with the couple, apart from the abuse.

The petitioner also submitted letters from her parents, [REDACTED] R-J's mother, [REDACTED] and her sister, [REDACTED]. The petitioner's mother, [REDACTED] stated that she visited the petitioner and E-B- at their residence on several holidays and social occasions and the couple also visited her at her home. The petitioner's father, [REDACTED] stated that the couple visited his home and he visited the couple at their home for social occasions. However, neither of the petitioner's parents describes celebrating holidays or other social occasions with the couple in any detail. Nor do they provide any substantive details of their personal knowledge of the relationship. [REDACTED] stated that she visited the couple at their home and she saw them at their temple and at the beach. She recounted in a one-sentence statement that she observed the couple's interactions, but she did not provide any substantive details of her knowledge of the relationship. [REDACTED] stated that she visited the couple and stayed with them at their home, but she did not provide any details about her visit and interactions with the couple, apart from the abuse.

The petitioner submitted the following relevant documentation: a health insurance card and health insurance statements; a car insurance policy; a utility bill; two bank statements; a life insurance statement; information about an investment fund; several photographs; and five greeting cards. The health insurance and car insurance documents show that the couple had joint health and car insurance policies. The utility bill is also in both of the couple's names. The greeting cards are addressed to the couple on their wedding day. However, the bank statements show little transaction activity and one statement is dated after the couple separated. The photographs of the couple are undated and taken at unspecified locations and contain no description of the significance of the events photographed. The life insurance statement is only addressed to the petitioner and does not identify the beneficiary of the policy. The investment fund letter is also in E-B-'s name only and is dated after the couple's separation. The director correctly determined that the petitioner failed to establish her good-faith entry into the marriage by preponderance of the evidence.

On appeal, the petitioner resubmits evidence of her and F-B's joint health insurance and car insurance. She also submits evidence of repair and service on her car and a letter from the [REDACTED] county water utilities department verifying that she and E-B- were jointly responsible for the account. She provides bank statements showing that she and E-B- had a joint checking account during their marriage. She also provides a letter from a life insurance company stating that she opened a life insurance policy on June 2, 2011 with E-B- named as the beneficiary.

The petitioner submits additional statements from: her parents; R-J's mother; her neighbors, [REDACTED] and her friends, [REDACTED]

These individuals discuss their visits to the couple's residence and interactions with the couple during holidays and other social occasions.

The petitioner also submits a new personal affidavit, dated March 4, 2014, in which she again discusses her relationship with R-J- and reiterates that she met E-B- through their friends in December 2006. She states that they kept in touch over the telephone and met again in April 2007 at E-B-'s church and started dating. She recounts that in 2010, after she had an argument with E-B- about R-J- visiting her over the weekend, E-B- ended the relationship. The petitioner states that during their two-month break she became pregnant with R-J-'s child. She recounts that when she returned to E-B- he agreed to act as a father figure to the child and was supportive. The petitioner states that they became engaged on February 14, 2010 at E-B-'s cousin's home. She recounts that they wed on May 26, 2011 at the courthouse and they had a wedding reception with her family members and friends. The petitioner, however, failed to describe her four-year courtship with E-B- in any credible detail, apart from the abuse. In addition, the petitioner's affidavit conflicts with her prior statements and other evidence in the record. The petitioner recounts in both statements that during her courtship with E-B-, they had one breakup and then reconciled. She recalled in her statement below that she ended her relationship with E-B- in 2009 when he became jealous because R-J- came to her son's birthday party. On appeal, however, she indicates that E-B- ended the relationship in 2010 after they had an argument about R-J- "visiting one weekend." She also states on appeal that E-B- did not want her to have a relationship with R-J-. However, her marriage certificate shows that R-J- was a witness to her wedding at the courthouse with E-B-. She does not discuss or further elaborate on R-J-'s role in her wedding ceremony or their continued relationship in any of her statements.

On appeal, the petitioner asserts that the director failed to identify the reason the petitioner's evidence was insufficient. The petitioner also contends that the director failed to consider her evidence in the totality under the credible evidence standard. The record contains evidence that the petitioner and E-B- had joint car insurance and health insurance policies, a joint bank account and were jointly responsible for utility bills. The petitioner's friends and family members probatively discuss their interactions with the couple. However, the petitioner in her own statements does not describe her four-year courtship with E-B- in probative detail, apart from the abuse. Her statements also contain conflicting information regarding her second pregnancy with R-J- during the time period she claimed that she was in a relationship with E-B-. The petitioner also does not fully explain her joint ownership of residential property with R-J- during her relationship with E-B-. In addition, she named all the guests at her wedding reception, but did not discuss R-J-'s presence as a witness at her wedding, as reflected on her marriage certificate. These discrepancies detract from the credibility of the petitioner's claims. Accordingly, the petitioner has failed to demonstrate that she entered into marriage with her former husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

On appeal, the petitioner established that she resided with her former husband. However, she failed to establish that she entered into marriage with her former husband in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

(b)(6)

Page 7

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

**ORDER:** The appeal is dismissed.