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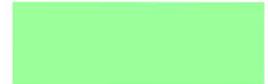


U.S. Citizenship  
and Immigration  
Services

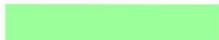


Date: OCT 14 2014

Office: VERMONT SERVICE CENTER File:

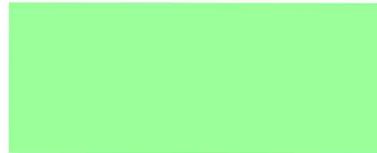


IN RE: Self-Petitioner:



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,

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

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 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 his U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered the marriage in good faith. On appeal, counsel 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 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 an abused spouse self-petition under section 204(a)(1)(A)(iii) of the Act are further explained in 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 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 Ghana who entered the United States on June 7, 2003, as a nonimmigrant visitor. The petitioner married R-A-<sup>1</sup> a U.S. citizen, on April 20, 2007, in [REDACTED] Massachusetts. The petitioner filed the instant Form I-360 self-petition on September 28, 2011. The director subsequently issued a Request for Evidence (RFE) of the petitioner's good-faith entry into the marriage. The petitioner timely responded to the RFE with additional evidence, which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and counsel filed a timely appeal.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon a full review of the record, the petitioner has overcome the director's ground for denial. The appeal will be sustained.

*Entry into the Marriage in Good Faith*

Counsel contends that U.S. Citizenship and Immigration Services (USCIS) incorrectly disregarded relevant evidence and that the evidence in the aggregate establishes that the marriage was entered into in good faith. Counsel asserts, among other things, that the petitioner explained the inconsistency of addresses in the couple's joint income tax returns and that correspondence from [REDACTED] [REDACTED] should not have been discounted. After a careful review of the entire record, a preponderance of the relevant evidence demonstrates the petitioner entered into his marriage in good faith.

The petitioner gave a probative, credible, and detailed account of his relationship with R-A-, their courtship, and their shared experiences. The petitioner initially submitted a letter describing how he met R-A- at a store and subsequently met her family. He also recounted his proposal and their wedding. In response to the RFE, the petitioner submitted an affidavit describing in more detail the couple's courtship. He explained how he and R-A- prayed together, attended church, and hosted prayer night at their house. He provided additional probative details regarding their activities and the traditions they started in their marriage. He credibly explained how they had separate membership cards for health

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

insurance, how she could not be added onto his banking account because of her low credit rating, and how they used her step-father's address on their joint income tax form because they had a brief separation in 2008 and R-A- wanted to keep the tax refund.

The record also includes numerous affidavits from the petitioner's friends and sister. Fellow church member [REDACTED] stated that the couple attended church and prayer meetings together regularly. He recounted attending their wedding and personally observed the petitioner's genuine love for R-A-. He described how others had nothing but praises for the couple, and he explained that he tried to help the couple resolve their marital issues early in the marriage. A statement from the petitioner's sister, [REDACTED], who also attended the couple's wedding, described that it was love at first sight for her brother when he met R-A-. The petitioner's friend, [REDACTED] also provided a detailed, personal account of the petitioner's relationship with R-A-, describing how she became close friends with R-A- after the petitioner introduced them to each other. Ms. [REDACTED] provided additional information regarding the petitioner's marital intentions, describing that she went on a trip with the couple and spent most holidays with them as if they were family. She described her personal observation that they were truly in love. Another friend, [REDACTED] described visiting the couple's house regularly for prayers and for dinner. An affidavit from R-A-'s friend, [REDACTED] described how the petitioner would not leave R-A- despite her mistreatment of him because he loved her too much.

The statements from friends and family provide detailed, personal accounts of the petitioner's marital intentions and experiences with R-A-. They describe their relationship to the couple and the basis of their personal knowledge of the petitioner's marriage. The record also includes copies of the couple's joint income tax returns, numerous bills addressed to the couple at their marital residence, and a letter from the petitioner's credit union explaining that R-A- could not be added to his account due to her low credit score. When viewed in the totality, the preponderance of the relevant evidence establishes that the petitioner entered into marriage with R-A- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

On appeal, the petitioner has established that he entered into the marriage in good faith. He is consequently eligible 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 been met.

**ORDER:** The appeal is sustained.