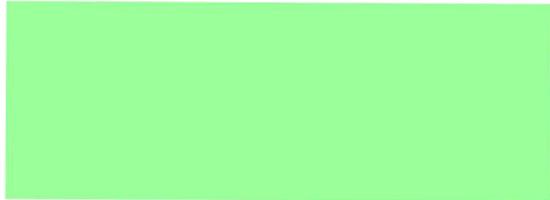
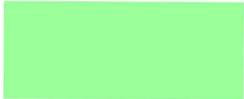




U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **OCT 17 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:

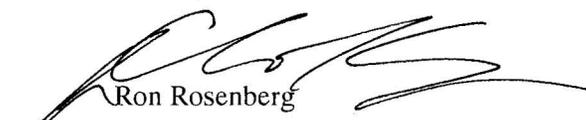


INSTRUCTIONS:

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. 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 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 are further explained in 8 C.F.R. § 204.2(c)(1), which states, in pertinent part, that a spouse may self-petition under these provisions if she establishes:

(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 was last paroled into the United States on May 27, 2013. He married A-G-<sup>1</sup>, a U.S. citizen, on September [REDACTED] New Jersey. The petitioner filed the instant Form I-360 self-petition on September 4, 2013. The director subsequently issued a Request for Evidence (RFE) and a Notice of Intent to Deny (NOID), stating that the petitioner had submitted the same evidence from a previous Form I-360 self-petition that was denied.<sup>2</sup> The petitioner, through counsel, timely responded 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). A full review of the record fails to establish the petitioner's eligibility. Counsel's claims on appeal do not overcome the director's ground for denial and the appeal will be dismissed.

#### *Entry into the Marriage in Good Faith*

Checking account statements show that the petitioner and A-G- had a joint account, but eight out of nine of the statements are dated after the petitioner stated they separated. The single statement dated prior to their separation shows only three transactions and an ending balance of \$62. Nonetheless, 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). 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). The record includes four affidavits from the petitioner. In his first affidavit, the petitioner states he met A-G- through his uncle during a party in April of 2003. He recounted that they started dating, moved into her sister's apartment

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

<sup>2</sup> The petitioner's first Form I-360 self-petition, receipt number [REDACTED] was denied on November 21, 2011. The petitioner's second self-petition, receipt number [REDACTED] was denied on July 24, 2013. The instant Form I-360 self-petition is the petitioner's third application.

in August of 2004, and got married on September [REDACTED]. The remainder of the affidavit described A-G-'s mistreatment of him. In the petitioner's second affidavit, he explained that he had no joint documents because they lived with A-G-'s sister and most of the bills were in her name. In his third affidavit, the petitioner stated that an abusive, non-viable marriage can still be a good-faith marriage and reiterated that due to the abuse he suffered, he was unable to produce documents to show a good-faith marriage. In the petitioner's fourth affidavit, he briefly stated that his relationship with A-G- developed out of love, having fun, and learning each other's cultures. He referred to affidavits from friends to show his good-faith intent in marrying A-G-. He asserted that he would not have moved in with A-G-'s sister if he did not have a good-faith intent to marry A-G-. He briefly reiterated his reasons for not submitting joint documentation.

The petitioner's affidavits did not provide detailed information regarding the couple's courtship, wedding ceremony, or shared residence and experiences apart from the abuse. Affidavits from the petitioner's friends and A-G-'s relatives also did not provide relevant, substantive information regarding the petitioner's good-faith intentions. For example, A-G-'s cousin, [REDACTED] briefly recounted that he spent time with the couple in [REDACTED] but he did not describe, for example, any specific contact with the petitioner and A-G-, any particular visit or social occasion with the couple, or any interactions with the couple that would establish his personal knowledge of the relationship. Although A-G-'s relatives, [REDACTED] briefly stated that they saw the couple at A-G-'s sister's house and that the couple had a genuine relationship, they did not describe any particular visit or provide any other substantive information regarding the couple's relationship or the petitioner's marital intentions. Similarly, [REDACTED] described visiting the couple in August 2004, but did not address the couple's courtship or relationship.<sup>3</sup> The preponderance of the evidence does not show the petitioner entered the marriage in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

On appeal, the petitioner has failed to establish that he entered into his marriage in good faith. He is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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). Here, that burden has not been met and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

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<sup>3</sup> The petitioner's fourth affidavit referenced a statement from [REDACTED] Mr. [REDACTED] affidavit was not submitted in support of the instant Form I-360 self-petition, but rather, was submitted with a prior self-petition. In any event, Mr. [REDACTED] who is A-G-'s uncle, only briefly stated that he attended a number of social functions with the couple, but did not describe any specific social event or provide other probative information regarding the couple's relationship.