



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: **OCT 29 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:

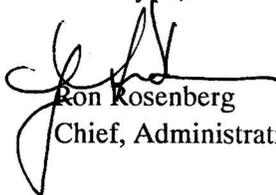
SELF-REPRESENTED

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 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 under 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 a United States citizen.

The director denied the petition for failure to establish that the petitioner entered into the marriage with her spouse, a United States citizen, in good faith. On appeal, the petitioner submits a supplemental affidavit and other 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.

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(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.

#### *Facts and Procedural History*

The petitioner is a citizen of the Dominican Republic who last entered the United States on May 6, 2008 as a B-2 nonimmigrant visitor. The petitioner married R-N-<sup>1</sup>, a U.S. citizen, on September [REDACTED] in New Jersey. She filed the instant Form I-360 self-petition on October 28, 2011. The director subsequently issued two Requests for Evidence (RFEs) of, among other things, the petitioner's good-faith entry into the marriage. The petitioner timely responded with further evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner appealed.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). On appeal, the petitioner has not overcome the director's sole ground for denial. The appeal will be dismissed for the following reasons.

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

The director correctly determined that the petitioner did not establish her entry into her marriage with her husband in good faith. In her initial affidavit, the petitioner stated that she first met R-N- during the summer of 2008 while she was visiting her sons in New Jersey. She explained that she went to a local bodega with its owner, her relative, and while there met R-N- who had a business selling items to bodegas. The petitioner recounted how she and R-N- flirted with each other, he left the bodega but then returned, kissed her and asked for her telephone number. She recalled that they spoke on the telephone for about two weeks before going out to an unspecified destination after which R-N- never took her out as he was a "homebody." The petitioner explained that R-N- asked her not to return to the Dominican Republic and to instead stay and be his girlfriend. She recounted how they did "couple" things together like buying items for his home and cooking. The petitioner recalled that she loved the way R-N- treated her but was concerned that he kept her hidden from his family. She stated that R-N- proposed marriage and they married on September [REDACTED]. The petitioner recalled that after the wedding ceremony, they went to a popular restaurant with friends. She explained that almost immediately after they married, R-N- began to abuse her and treat her like an object he owned.

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

In the petitioner's second affidavit, she stated that she first met R-N- on a trip she made in 2006. She recounted how R-N- was visiting a friend on the first floor of her home, they were introduced and from that moment could not forget one another. This statement is inconsistent with the petitioner's initial affidavit in which she stated that she first met R-N- in 2008 at a bodega owned by her relative. The petitioner did not provide an explanation for the differing accounts. She stated that when she returned to the Dominican Republic, R-N- used to call her long-distance on the telephone. The petitioner recounted how when she later visited on an unspecified date, she and R-N- became a couple, he asked her to be his wife and remain in the United States, and they married on September [REDACTED]. She stated that when she married R-N- she was in love and believed they would be partners for life. The petitioner did not, in either affidavit below, describe in detail her courtship with R-N-, their wedding ceremony, joint residence, or any shared experiences apart from the abuse. In addition, although the petitioner described her first meeting with R-N- in some probative detail in her initial affidavit, she described an alternate first meeting in her second affidavit that she stated occurred two years earlier. The petitioner did not provide an explanation reconciling the two accounts.

The petitioner also submitted below the affidavits of seven friends and a pastor. Some of the affiants discussed the abuse the petitioner suffered at her husband's hands, and others attested to their joint residence including two who stated briefly that the petitioner and R-N- were a couple. However, none of the affiants discussed any particular occasion they shared with the petitioner and R-N-, apart from the abuse, or provided further probative information concerning the petitioner's marital intentions. In addition, the petitioner submitted three greeting cards she received from R-N-, and thirteen photographs of them together on their wedding day and on three other unspecified occasions. While the cards demonstrate brief expressions of affection by R-N-, they are not probative of the petitioner's marital intentions. Similarly without a probative account, the photographs alone do not demonstrate that the petitioner married her husband in good faith.

On appeal, the petitioner states that she does not have much proof of her marital intentions other than photographs, cards, and affidavits due to the abuse she suffered by her husband. 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 this case, the affidavits of the petitioner and her family and friends do not provide sufficient probative information to establish her good-faith intent upon marrying R-N-, and a significant discrepancy concerning the date and circumstances under which she first met her husband remains unresolved.

The petitioner states in her third affidavit that she was head-over-heals in love when she married her husband and she wished to spend all her remaining years with him. She recalls that she was his girlfriend since 2006 and they married on September [REDACTED]. This statement is inconsistent with the petitioner's initial affidavit in which she stated that she first met her husband in 2008 at a bodega owned by her relative. It is also inconsistent with her second affidavit, in which the petitioner stated that while she first met R-N- in 2006, they did not become a couple until she returned to the United States on a later unspecified date.

The petitioner's son, [REDACTED] states in his affidavit that he witnessed his mother's relationship with R-N- whom she met in the summer of 2008. While this statement is consistent with the petitioner's first affidavit, it is inconsistent with statements in her second and third affidavit that she first met R-N- in 2006. Mr. [REDACTED] recalls that he was the best man at the petitioner's wedding as R-N- had not yet become abusive. [REDACTED] states that he is the owner of the home in which the petitioner resided when she filed the Form I-360 petition and where her sons live in an apartment on the same premises. Mr. [REDACTED] recalls that it was through him and his wife that the petitioner met R-N- in 2006. While this statement is consistent with the petitioner's second and third affidavit, it is inconsistent with statements in her first affidavit and the affidavit of her son that the petitioner and R-N- first met in 2008. The petitioner has not addressed on appeal the discrepancies among her affidavits and those of her son and Mr. [REDACTED] concerning when and under what circumstances she first met her husband. Without a reasonable explanation from the petitioner, the discrepancy remains unresolved on appeal and diminishes her claim that she entered into the marriage with her husband in good faith.

[REDACTED] states that her friendship with the petitioner began through her son and she has known the petitioner and R-N- since 2008. Ms. [REDACTED] states that the petitioner loves R-N-, and describes two incidents of abuse she witnessed in their home. [REDACTED] states that she knows the petitioner through her former husband who is R-N-'s cousin. While both affiants describe incidents of abuse in the petitioner's home, neither Ms. [REDACTED] nor Ms. [REDACTED] provides further probative detail of the petitioner's marital intent. The petitioner also submitted eight original photographs on appeal. Copies of four of the photographs were previously submitted below, two are of an unspecified occasion captured in several other photographs, and the remaining two show the petitioner and R-N- together on two unspecified occasions. As previously discussed without a probative account photographs alone are insufficient to demonstrate the petitioner's marital intent.

The preponderance of the relevant evidence submitted below and on appeal does not demonstrate that the petitioner entered the marriage with her husband in good faith. When viewed in the aggregate, the relevant evidence fails to show that the petitioner married her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

On appeal, the petitioner has not overcome the director's sole ground for denial as she has not established that she entered into the marriage with her husband in good faith. Consequently, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

The burden of proof in these proceedings rests solely with the petitioner. 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. Accordingly, the appeal will be dismissed and the petition will remain denied for the above-stated reasons.

**ORDER:** The appeal is dismissed.