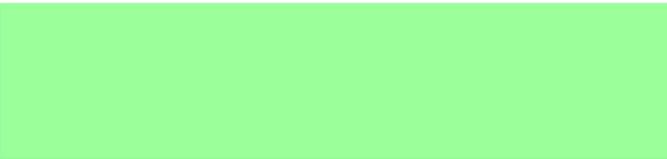
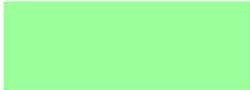


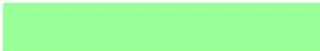


U.S. Citizenship  
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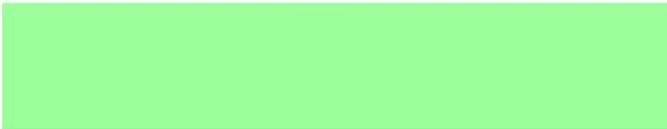


Date: **SEP 10 2014** Office: VERMONT SERVICE CENTER File: 

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:

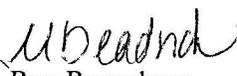


INSTRUCTIONS:

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 her 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 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, 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 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 Nigeria who entered the United States on [REDACTED] 2002 as a B-2 nonimmigrant visitor. She married B-S-<sup>1</sup>, a U.S. citizen, on [REDACTED] 2005, in Arlington, Virginia. The petitioner filed the instant Form I-360 on February 3, 2011. The director subsequently issued a Request for Evidence (RFE) of the petitioner's good-faith entry into the marriage. The petitioner, through counsel, 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). 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*

The petitioner initially submitted a statement describing that she met B-S- through a friend and they dated for a little while before getting married. In response to the RFE, the petitioner submitted an affidavit briefly repeating how she met B-S-, and adding that they went to the movies, dinner, and sightseeing. The petitioner's statements failed to provide specific information regarding her relationship with B-S- and her intentions for marrying him. Apart from the abuse, her statements did not provide detailed information regarding the couple's courtship, wedding ceremony, or shared residence and experiences. Letters from her friends and family did not provide any additional details that address the petitioner's marital intentions. For example, letters from the petitioner's cousin, nephew, and uncle provided no substantive information regarding the couple's relationship prior to their marriage or the petitioner's marital intentions. Similarly, [REDACTED] briefly recounted visiting the couple, but did not describe, for example, any specific contact with the petitioner and B-S-, any particular visit or social occasion with the couple, or any interactions with the couple that would establish her personal knowledge of the relationship. Letters from [REDACTED], [REDACTED], and [REDACTED] indicated they met the petitioner after she was already married and, therefore, are not probative in establishing the petitioner's good-faith entry into her marriage. Copies of the

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

couple's joint tax returns for 2007 through 2010, electric bills from 2009 and 2010, and photographs reflect that the petitioner and B-S- filed joint tax returns, shared a joint residence, and were pictured together on a few occasions; however, they failed to show that the petitioner entered the marriage in 2005 in good faith. The director correctly determined that the preponderance of the evidence submitted below did not establish the petitioner's good-faith entry into the marriage.

On appeal, counsel contends the director erred in concluding that documentation created more than a year after the couple's marriage was insufficient to show a good-faith marriage. Counsel explains that the petitioner and B-S- waited until after they found jobs before creating joint accounts. The petitioner submits a new affidavit on appeal stating that she and B-S- were unemployed for over a year after they married and, therefore, they did not file any joint tax returns until 2007. She explains that since they had such limited financial resources, they rented a room together in a friend's house and did not have any joint bank accounts or credit cards. Counsel also submits photographs with dates and descriptions.

Counsel is correct that joint documentation is not required to establish a self-petitioner's good-faith entry into the marriage. 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, without a more detailed, substantive description from the petitioner herself about her marital intentions, the preponderance of the evidence does not show that she entered into the marriage in good faith. The petitioner's statements provide no probative account of their courtship, wedding ceremony, shared residence, or shared experiences, and there are no additional affidavits in the record from individuals with personal knowledge of the couple's relationship. Although the photographs submitted on appeal contain dates and descriptions, all of the photographs are dated after the wedding with the exception of a single photograph of the wedding ceremony. A full review of the record fails to establish by a preponderance of the evidence that the petitioner entered into the marriage in good faith as required by section 204(a)(1)(A)(iii)(aa) of the Act.

### *Conclusion*

On appeal, the petitioner has failed to establish that she entered into her marriage in good faith. She 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.