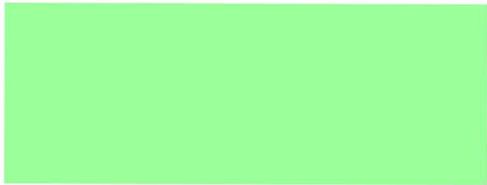


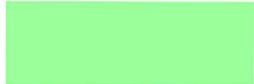


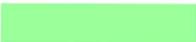
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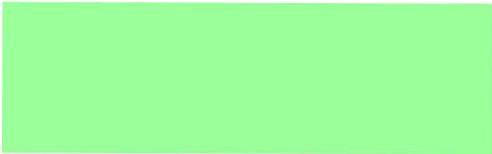
Date: SEP 10 2014

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)

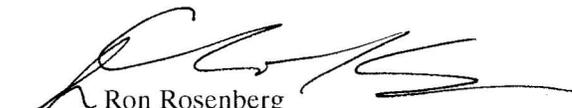
ON BEHALF OF PETITIONER:



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.

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Vermont Service Center acting 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 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 her U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her husband 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 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.

\* \* \*

(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 Japan who claims she began visiting the United States in 1998. The petitioner married K-A-<sup>1</sup>, a U.S. citizen on [REDACTED], 2008, in [REDACTED] Nevada. The petitioner filed the instant Form I-360 on July 16, 2012. The director subsequently issued a request for additional evidence of, among other things, her good faith entry into marriage with K-A-. The petitioner timely responded with further evidence which the director found insufficient to establish her eligibility. The director denied the petition and the petitioner, through counsel, timely appealed.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). On appeal, the petitioner has overcome the director's ground for denial.

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

The relevant evidence submitted below and on appeal demonstrates the petitioner's entry into her marriage in good faith. In her first declaration, the petitioner gave a probative, credible and detailed account of how she first met K-A- and their courtship. She described meeting him during one of her many business trips to the United States and recounted how he became an employee of her company. She stated that at the time, they were both in unhappy relationships and grew closer after they each had separated from their prior spouses. After an extended courtship, the petitioner stated that K-A- proposed marriage and the two were married on [REDACTED] 2008.

The petitioner also submitted declarations from family and friends [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. In his declaration, the petitioner's son, [REDACTED], stated that when he first came to the United States, he moved in with his mother and K-A-. Mr. [REDACTED] described K-A- as initially being a caring stepfather who helped him improve his English. He discussed the activities they did together and described their family life as comfortable. [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] all attested to being close friends with the petitioner, spending time with her at the home she shared with K-A-, and seeing K-A- there during their visits. In response to the RFE, the petitioner submitted a second declaration, photographs of the petitioner and K-A-, bank

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

statements, and 2008 federal income tax return documents. In her second declaration, the petitioner briefly stated that at first, her married life with K-A- was great and that the two traveled frequently together and had fun.

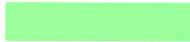
In denying the petition, the director found that the petitioner failed to provide sufficient evidence of jointly held accounts to show shared fiscal responsibilities or other documentation to provide insight into the dynamics of their marriage. On appeal, counsel asserts that the director erred by failing to acknowledge the credible evidence submitted by the petitioner and by insisting on traditional primary and secondary evidence.

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." 8 C.F.R. § 204.2(c)(2)(vii). In her statements, the petitioner provided a detailed and credible account of her courtship and marriage to K-A-. She also described K-A-'s fiscal irresponsibility and explained that while she paid their residential rent and purchased a vehicle for her business, both were done under K-A-'s name because the petitioner did not have immigrant status in the United States.

On appeal, counsel submits a third personal declaration from the petitioner, a declaration from her daughter [REDACTED], a second declaration from friend [REDACTED], and additional photographs. On appeal, the petitioner provides a further detailed account of how she met K-A- and how the two began dating. She stated that they frequently traveled together and that they made a special trip to Japan in 2002 so that K-A- could meet her family. The petitioner recounts that they began living together in 2002 and that K-A- began introducing her as his wife two years later. She states that her children got along well with K-A- and that he even surprised her one holiday by arranging a visit to the United States for her daughter, [REDACTED].

[REDACTED] describes first hearing about K-A- from her mother thirteen years ago. She recalls feeling shy when she first met K-A- in person in 2002, but then feeling more comfortable around him because he was patient, nice and considerate. Ms. [REDACTED] states that her and her brothers developed a stronger bond with him during his second visit to Japan. She further recounts occasions when the petitioner and K-A- attended their school events together and describes spending time with him when she visited K-A- and her mother in Los Angeles. Ms. [REDACTED] states that she and her brothers were happy when their mother and K-A- got married and that K-A- was like a real father. In his second declaration, [REDACTED] describes visiting the petitioner at her home and seeing family photographs of K-A- and the petitioner's children in Japan. The photographs submitted on appeal show K-A- at the petitioner's family residence in Japan and with her son and brother during their visit in 2002.

The statute and regulation require the consideration of all credible, relevant evidence. 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i), (vii). Here, the petitioner submitted: her own detailed and credible statements; multiple photographs of herself with K-A- including photographs from their trip to Japan; detailed statements from her son and daughter who have personal knowledge of the relationship; and statements from her friends who attest to observing the petitioner's devotion to K-A- and visiting



her at their marital home. The petitioner has therefore established by a preponderance of the evidence that she entered into marriage with 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 established that she entered into the marriage in good faith. She 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. See Section 291 of the Act, 8 U.S.C. § 1361; see also *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

**ORDER:** The appeal is sustained.