U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

Date: SEP 12 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 Acting 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 former United States citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her former husband, a U.S. citizen, in good faith.

On appeal, the petitioner provides a statement contesting the director's decision but submits no additional evidence.[1]

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.

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[1] Although counsel for the petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that a brief and/or additional evidence would be submitted within 30 days, the record contains no further documentation and is considered complete as it now stands.

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.

Pertinent Facts and Procedural History

The petitioner is a citizen of Liberia who entered the United States on July 12, 2007 as a B-2 nonimmigrant visitor. The petitioner married E-T-[2], a U.S. citizen, in New Jersey on June 8, 2008.[3] The petitioner filed the instant Form I-360, on July 18, 2011. The director subsequently issued a Request for Evidence (RFE) of the requisite good-faith entry into the marriage and evidence of the petitioner's good moral character. The petitioner timely responded with additional evidence which the director found insufficient to establish the petitioner's good-faith entry into the marriage and the director denied the petition on this basis. The petitioner timely appealed.

The AAO reviews these proceedings *de novo*. *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. The director correctly determined that the petitioner failed to establish that she married E-T- in good faith. The petitioner's claims on appeal do not overcome the director's ground for denial.

Analysis

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).

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[2] Name withheld to protect the individual's identity.

[3] The petitioner and E-T- were divorced on September 18, 2012, in the Superior Court of New Jersey, County of

In her affidavit submitted at filing, the petitioner did not provide any details regarding how she met E-T-, their courtship, or other pertinent discussion regarding her entry into marriage with E-T-. Rather, the petitioner generally stated that they "began living together soon after [she] entered the United States" and that she married E-T- in good faith. In response to the director's RFE, the petitioner did not provide any additional details other than to state that prior to their marriage, the petitioner and E-T- resided with E-T-'s father.

Similarly, the letters submitted on the petitioner's behalf lack specificity regarding her claim of good-faith entry into marriage. In her initial letter, E-T-'s cousin, stated that E-T- abandoned the petitioner and that the petitioner has been residing with Ms. since that time. In her second letter submitted in response to the director's RFE, Ms. briefly stated the date and location of the petitioner's wedding and residence with E-T-. She did not, however, provide details regarding visits to the petitioner's home or any other specific information about the petitioner's relationship with E-T- and her marital intentions. The letter from also submitted in response to the director's RFE, indicated that Mr. was present for the petitioner's marriage to E-T- and that he occasionally visited them at their residence. Mr. provided no observations of the petitioner and E-T- together and described no specific interactions with the couple. The petitioner's brother, submitted a letter indicating that E-T- visited the petitioner's family in Liberia prior to their marriage and lived with the petitioner in Liberia. Mr. also stated that "[d]uring the courtship and marriage, [he] often judged matter[s] between the couple." Mr. did not elaborate on this statement and provided no further details to establish the petitioner's good-faith entry into marriage.

The petitioner submitted photographs of herself and E-T-, but provided no description of the date and significance of the three events pictured, and their relevance to her claim of a good faith marriage.

The petitioner submitted two printouts from The first printout shows that the petitioner and E-T- opened a joint account on September 21, 2009, and the second printout shows account activity on three occasions between September 25, 2009 and October 13, 2009.

The remaining relevant evidence concerns the petitioner's medical treatment, including evidence of two miscarriages. In her decision, the director stated that the documentation was not sufficient to establish that the petitioner's former spouse was the father of the petitioner's miscarried pregnancies. On appeal, counsel references the petitioner's divorce hearing and argues that "implicit" in the court's final judgment is the "unrebuttable presumption that the parties had cohabitated as husband and wife," and that the pregnancy tests "verify that [she] became pregnant by her husband." Contrary to counsel's claim, however, the April 30, 2009 pregnancy test referenced by the petitioner on appeal does not contain any information about the paternity of the child.

In addition, although the divorce hearing transcript shows the family court judge found the petitioner credible regarding the former couple's cohabitation and E-T-'s verbal abuse, the judge made no finding regarding the issue here on appeal. The divorce judgment and hearing transcript contain no testimony or factual findings regarding the petitioner's marital intentions.

When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the petitioner entered into marriage with her former spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

The petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.