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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

Date: SEP 19 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.

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 sustained.

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 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 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)(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.

Facts and Procedural History

The petitioner is a citizen of Nepal who last entered the United States on January 19, 2009 as an F-1 nonimmigrant student. The petitioner married V-C-[1], a U.S. citizen, on July 30, 2010 in California. She filed the instant Form I-360 self-petition on June 20, 2011. The director subsequently issued Requests for Evidence (RFEs) of, among other things, the petitioner's good-faith entry into 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 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 as follows.

Entry into the Marriage in Good Faith

In her first declaration, the petitioner recounted in detail how she met her spouse at a gathering in January 2010. She described their courtship, shared interests and the manner in which he proposed marriage to her. The petitioner recounted her engagement, the plans she and V-C- made together for the future, and the first time she witnessed him lose his temper and suspected he might have a drug problem. She discussed his subsequent apology and kind, romantic gestures, how they went forward with their wedding plans, and the struggles they had early on as a newly married couple. The petitioner submitted a declaration from her close friend, [redacted] in which Ms. [redacted] described meeting V-C- just when the petitioner started dating him, explained how the three attended social functions together, and discussed her observations of their relationship as well as what was told her by the petitioner during the former couple's courtship and marriage. In addition, the petitioner submitted joint utility bills issued during her marriage to V-C- and copies of photographs of the couple on their wedding day and on other occasions.

In response to the RFE dated September 6, 2012, the petitioner submitted a supplemental declaration in which she provided further probative detail of her first meeting with V-C-, their courtship and shared experiences, his proposal, their engagement and their differing views on residing together before

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

marriage. She described their first apartment and the furnishings they purchased to make it a home, discussed her family's response to their engagement, and recounted how she and V-C- made plans for their wedding and later decided to spontaneously exchange vows in a chapel within the county registrar's office. The petitioner recounted how she and V-C- celebrated after the wedding with friends and she described the difficulties they endured early in the marriage when V-C- could not secure steady employment and grew increasingly volatile. The petitioner submitted declarations from four friends who provided further probative information of her entry into the marriage with V-C- in good faith. described how he observed the petitioner and V-C- together on numerous social occasions before and after they married. In Ms second declaration, she described in detail her observations of the former couple while they were dating and after they married, her conversations with the petitioner about her relationship with V-C-, and the assistance she provided when the petitioner felt compelled to leave him. wrote that the petitioner shared every detail about her life with her, spoke at length of her relationship with V-C-, and she described a number of occasions she spent with the petitioner and V-C-. In addition, the petitioner submitted a residential lease agreement, home furnishings receipts, and copies of mail sent to V-C- at the home they shared.

The director nonetheless determined the petitioner did not marry her spouse in good faith because the lease and furnishings receipts were in the petitioner's name alone, the mail to V-C- was in his name alone, and the joint utility bills were dated after their separation. The petitioner indicated on the Form I-360 and in her declarations that she and V-C- resided together from July to November 2010. Several of the joint utility statements cover October and November 2010. The petitioner explained in detail in her supplemental declaration that V-C- was not included on the lease or on credit cards because he had very poor credit. The director did not acknowledge the petitioner's reasonable explanation and discounted without explanation the declarations of the petitioner in which she provided credible probative details of her marital intentions and good-faith entry into marriage with V-C-. The director additionally mischaracterized the declarations of several of the petitioner's close friends as focusing on V-C-'s behavior toward the petitioner and lacking specific details verifying her relationship with him. 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). The preponderance of the relevant credible evidence submitted below and on appeal demonstrates that the petitioner married her spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

In these proceedings, 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). On appeal, the petitioner has met this burden and established her eligibility for immigrant classification under section 204(a)(1)(A)(iii) of the Act. The appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained.