



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **SEP 25 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)

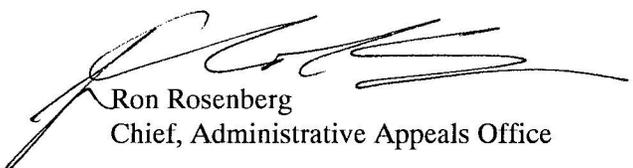
ON BEHALF OF PETITIONER:

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 and the petition will remain denied.

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 on the basis of her determination that the petitioner did not marry her husband in good faith. On appeal, counsel submits a brief.

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.

Facts and Procedural History

The petitioner is a citizen of Ghana who entered the United States on September 22, 2007, as a nonimmigrant visitor. The petitioner married her husband, a U.S. citizen, on October 14, 2009, in New York. The petitioner filed the instant Form I-360 self-petition on May 11, 2011. The director subsequently issued a request for additional evidence (RFE) of, among other things, the petitioner's good-faith entry into the marriage. The director found the petitioner's response to the RFE insufficient and denied the petition accordingly. On appeal, counsel submits a brief.

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 for the following reasons.

Entry into the Marriage in Good Faith

The relevant evidence submitted below fails to demonstrate the petitioner's entry into her marriage in good faith. In her affidavit dated May 9, 2013, the petitioner stated that she met her husband at a Laundromat where they were both washing their clothes. She reported that she was having trouble with her credit card and he helped her. They exchanged telephone numbers, and her husband took her out a few times. She recalled that her husband was attentive and caring and loved her two kids. She indicated that her husband moved in with her, she paid their expenses, and then they got married. The petitioner also submitted a psychological evaluation from [REDACTED] a licensed clinical social worker. Ms. [REDACTED] repeated the information the petitioner provided in her affidavit regarding how she met and married her husband, but Ms. [REDACTED] evaluation focused primarily on the abuse in the marriage. Neither Ms. [REDACTED] nor the petitioner described in probative detail how the petitioner met her husband, their courtship, engagement, wedding, or any of their shared experiences, aside from the abuse.

The petitioner submitted affidavits from friends. [REDACTED] all indicated that they knew the petitioner and her husband, and that they had problems in their marriage. These affidavits do not describe the affiants' observations in probative detail or provide any substantive information regarding the petitioner's

interactions and relationship with her spouse prior to and during their marriage. The director correctly concluded that these affidavits were insufficient to demonstrate that the petitioner married her husband in good faith.

The petitioner also submitted copies of joint bank account statements that showed little activity and did not reflect joint use of marital assets or payment for rent, utilities, or other shared living expenses. The petitioner also provided copies of four joint utility bills but, without probative testimony, the bills are insufficient to establish the petitioner's intentions upon entering into the marriage.

On appeal, the petitioner, through counsel, alleges that the director did not meaningfully weigh the relevant evidence, including the affidavits from the petitioner's friends and Ms. [REDACTED] evaluation. The record reveals no error in the director's assessment of the relevant evidence. As explained above, the testimonial evidence submitted does not demonstrate the petitioner's entry into her marriage in good faith. In her affidavit, the petitioner briefly describes meeting her husband and states that they were married, but does not describe their courtship, wedding, joint residence or any of their shared experiences in meaningful detail. Similarly, the affidavits from her friends are general and do not substantively discuss their observations of the petitioner's interactions with or feelings for her husband during their courtship or marriage. Ms. [REDACTED] evaluation is probative of the abuse, but not the petitioner's marital intentions. When viewed in the aggregate, the relevant evidence does not demonstrate, by a preponderance of the evidence, that the petitioner 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 not established that she entered into the marriage in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

The appeal will be dismissed. In visa petition 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.

ORDER: The appeal is dismissed.