



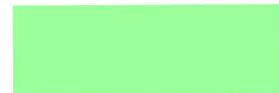
U.S. Citizenship  
and Immigration  
Services

(b)(6)

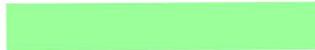


Date: SEP 25 2014

Office: VERMONT SERVICE CENTER File:



IN RE: Self-Petitioner:



PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(ii)

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 under section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii), as an alien battered or subjected to extreme cruelty by a lawful permanent resident of the United States.

The director denied the petition for failure to establish that the petitioner married her former husband in good faith.

*Relevant Law and Regulations*

Section 204(a)(1)(B)(ii)(I) of the Act provides that an alien who is the spouse of a lawful permanent resident of the United States may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the permanent resident 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 for preference classification as the spouse of a lawful permanent resident, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(B)(ii) of the Act, 8 U.S.C. § 1154(a)(1)(B)(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)(B)(ii) 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)(B)(ii) 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 Russia who entered the United States on June 26, 2008 as a J-1 nonimmigrant exchange visitor. The petitioner married R-C-<sup>1</sup>, a lawful permanent resident, on October 10, 2010. The petitioner filed the instant Form I-360 on July 24, 2012. The director subsequently issued Requests for Evidence (RFE) of, among other things, the petitioner's entry into the marriage in good faith. The petitioner timely responded with additional evidence, which the director found insufficient and the director denied the petition.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

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

The relevant evidence demonstrates that the petitioner's entry into her marriage was in good faith. In her initial statement, the petitioner described in detail how she first met her former husband at the bar where she worked; their shared activities, conversations, and going out on dates to museums; her feelings for R-C-; and why she decided to get married, her engagement, her wedding reception, and her joint residence with R-C-.

Letters from the petitioner's friends further support her claim. Her friends, [REDACTED] and [REDACTED], stated that they spent time with the couple, going to an amusement park and a parade; that they attended their wedding; and visited the couple's residence. Ms. [REDACTED] stated that the petitioner was "joyful" to be engaged to R-C-, and that she helped the petitioner find a wedding dress. Ms. [REDACTED] further stated that the petitioner told her that despite their background and age difference she and R-C- were "soul mates."

The petitioner also submitted a letter from [REDACTED] listing a joint checking account that was opened on January 26, 2011 and closed on October 3, 2012; [REDACTED] joint checking account statements and transaction history records; a letter from her landlord confirming her joint residence; twelve large photographs and over sixty thumb-size photographs of the petitioner and R-C- together and with other people at their wedding and pictures of the petitioner

---

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

and R-C- together or with other people on eight separate occasions; and seven greeting cards to the couple from their friends and eight greeting cards from R-C- to the petitioner.

On appeal, counsel asserts that the petitioner provided a detailed account of her relationship, her attempt to reconcile with R-C-, and submitted numerous documents in support of her good faith intent. Counsel further asserts that the director overlooked that the affidavits from [REDACTED] and [REDACTED] were corroborated by the evidence in the record. The determination of what evidence is credible and the weight to be given that evidence is within the sole discretion of U.S. Citizenship and Immigration Services (USCIS). Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). The petitioner's statements about how she met her former husband, their courtship, her decision to marry, her engagement, her wedding ceremony, and their joint residence are credible and detailed. The petitioner also provided credible affidavits from her two friends about her relationship; joint documentation; many photographs of her wedding and of eight other occasions that she spent with R-C-; and greeting cards from family, friends, and her former husband. When viewed in the totality, the preponderance of the evidence in this case demonstrates that the petitioner entered into the marriage with her former husband in good faith, as required by section 204(a)(1)(B)(ii)(I)(aa) of the Act.

#### *Conclusion*

On appeal, the petitioner has established that she married R-C- in good faith. She is consequently eligible for immigrant classification under section 204(a)(1)(B)(ii) of the Act.

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); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). That burden has been met. The appeal will be sustained.

**ORDER:** The appeal is sustained.