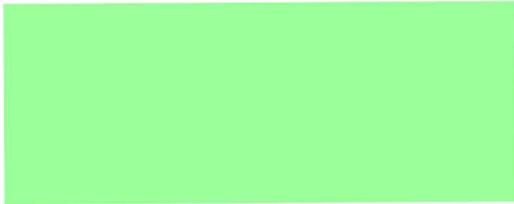


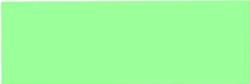


U.S. Citizenship
and Immigration
Services

(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)(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 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 on the basis of her determination that the petitioner failed to establish that she entered into marriage with her husband in good faith.

On appeal, the petitioner submits a brief.

Applicable Law

Section 204(a)(1)(A)(iii)(I) of the Act provides, in pertinent part, 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).

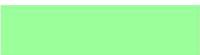
Section 204(a)(1)(J) of the Act further states, in pertinent part:

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 filed under section 204(a)(1)(B)(ii) of the Act are explained further at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part, the following:



(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 Jamaica who last entered the United States on January 19, 2011, as a nonimmigrant exchange visitor. On October 21, 2011, the petitioner married a U.S. citizen in Massachusetts. The petitioner filed the instant Form I-360 self-petition on June 15, 2012. The director subsequently issued a Request for Evidence (RFE) of the petitioner's good-faith entry into the marriage. The petitioner timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility and denied the petition accordingly. The petitioner filed a timely appeal. On appeal, the petitioner 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 establishes the petitioner's eligibility for the following reasons.

Entry into the Marriage in Good Faith

The relevant evidence demonstrates the petitioner's entry into her marriage in good faith. In her affidavit, the petitioner gave a probative, credible and detailed account of how she first met her husband, their courtship, shared residence and experiences. She indicated that they met at a party, and described the reasons she first became interested in him. She described how they began dating and the types of things they did together. She indicated that they made plans for the future, and how they moved in together, got engaged, and had a simple wedding ceremony in Massachusetts because they planned to have a larger wedding ceremony in Jamaica.

The petitioner also submitted affidavits from friends that described her and her husband's relationship. [REDACTED] indicated that the petitioner and her husband talked to him over Skype about their engagement and wedding plans. [REDACTED] the petitioner's sister, stated that she talked to the petitioner and her husband every day on Skype and that they seemed happy and were always playful with each other. In her affidavit in response to the RFE, Ms. [REDACTED] added that she helped the petitioner and her husband plan their honeymoon and wedding, and described how the petitioner and her husband interacted with each other while they were on Skype with her. [REDACTED] reported that she

introduced the petitioner to her husband, and described how they acted around each other. She also indicated that she went to several events with the petitioner and her husband, and at one point visited them in Massachusetts where she described the types of activities they all participated in together. In her affidavit in response to the RFE, Ms. [REDACTED] added information about her observations of the petitioner and her husband on the night they met, and how they interacted with each other on the other occasions they spent time together.

The petitioner also submitted a psychological evaluation written by [REDACTED] Ph.D. Dr. [REDACTED] restated much of what the petitioner described in her affidavit, and added details and information including how the petitioner's husband proposed to her and that the petitioner was at first hesitant to rush into the marriage too quickly. The petitioner also submitted photographs of herself and her husband at their wedding, electricity bills in both the petitioner and her husband's names, and proof of a joint insurance policy.

In denying the petition, the director concluded, without explanation, that the affidavits provided were vague and that the photographs and proof of insurance were insufficient to show that the petitioner married her husband in good faith. On appeal, counsel asserts that the petitioner's affidavits were detailed and probative, and that the director gave insufficient weight to the non-testimonial evidence, such as the psychological evaluation, pictures, joint insurance policy, and joint utility bills. The petitioner has credibly explained why she does not have more traditional forms of proof of good faith marriage, and when viewed in its totality the relevant evidence establishes, by a preponderance of the evidence, the petitioner's good faith entry into her marriage, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act. Consequently, the petitioner is 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. 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 been met.

ORDER: The appeal is sustained and the petition is approved.