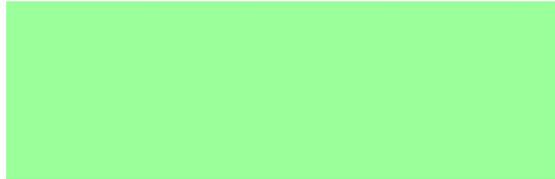


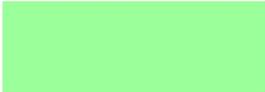
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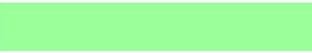
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Administrative Appeals Office (AAO)*  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

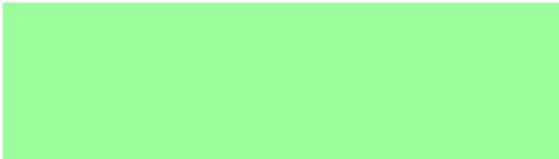


Date: FEB 11 2015 Office: VERMONT SERVICE CENTER File: 

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:

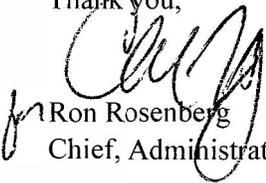


INSTRUCTIONS:

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 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 dismissed.

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 the petitioner’s failure to establish that he had a qualifying relationship with a U.S. citizen and is eligible for immediate relative classification based on such a relationship. The director further determined that the petitioner did not establish that he entered into the marriage with his spouse in good faith and that she subjected him to battery or extreme cruelty. The petitioner has not submitted a brief or any additional evidence on appeal.

*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).

An alien who has divorced an abusive United States citizen may still self-petition as an abused spouse if the alien demonstrates “a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse.” Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(aa)(CC)(ccc).

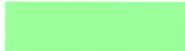
Section 204(a)(1)(J) of the Act further states, in pertinent part:

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:

(i) *Basic eligibility requirements.* A spouse may file a self-petition under section 204(a)(1)(a)(iii) . . . of the Act for his or her classification . . . as an immediate relative . . . if he or she:

\* \* \*



(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) . . . of the Act based on that relationship [to the U.S. citizen spouse].

\* \* \*

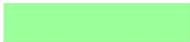
(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase “was battered by or was the subject of extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner’s marriage to the abuser.

(vii) *Good moral character.* A self-petitioner will be found to lack good moral character if he or she is a person described in section 101(f) of the Act. Extenuating circumstances may be taken into account if the person has not been convicted of an offense or offenses but admits to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. A person who was subjected to abuse in the form of forced prostitution or who can establish that he or she was forced to engage in other behavior that could render the person excludable under section 212(a) of the Act would not be precluded from being found to be a person of good moral character, provided the person has not been convicted for the commission of the offense or offenses in a court of law. A self-petitioner will also be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she willfully failed or refused to support dependents; or committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character. A self-petitioner’s claim of good moral character will be evaluated on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community. If the results of record checks conducted prior to the issuance of an immigrant visa or approval of an application for adjustment of status disclose that the self-petitioner is no longer a person of good moral character or that he or she has not been a person of good moral character in the past, a pending self-petition will be denied or the approval of a self-petition will be revoked.

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.

(ii) *Relationship.* A self-petition filed by a spouse must be accompanied by evidence of



... the relationship. Primary evidence of a marital relationship is a marriage certificate issued by civil authorities, and proof of the termination of all prior marriages, if any, of... the self-petitioner ....

\* \* \*

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase “was battered by or was the subject of extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner’s marriage to the abuser.

(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 last entered the United States on February 15, 2004, as a B-2 nonimmigrant visitor. On [REDACTED] the petitioner married T-B-<sup>1</sup>, a U.S. citizen, in Connecticut. On June 21, 2012, the petitioner filed a Form I-360 self-petition. On January 8, 2014, the director denied the petition for failure to establish that the petitioner entered into the marriage with T-B- in good faith and that she subjected him to battery or extreme cruelty. On January 22, 2014, the petitioner filed the instant Form I-360 self-petition with which he did not submit any additional evidence or address the evidentiary deficiencies detailed in the director’s decision denying the previous petition. The director subsequently issued a Request for Evidence (RFE) of, among other things, the requisite good-faith entry into marriage, battery or extreme cruelty and the petitioner’s present marital status, asking specifically whether he and T-B- are still married and requesting, if the marriage was terminated, copies of the relevant termination documents. The petitioner timely responded with evidence which the director found insufficient to establish his eligibility. The director denied the petition and the petitioner appealed.

We review these proceedings *de novo*. Upon a full review of the record, the petitioner has not overcome the director’s grounds for denial. The appeal will be dismissed for the following reasons.

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

*Entry into the Marriage in Good Faith*

The petitioner did not demonstrate below that he entered into his marriage with T-B- in good faith. The copies of the joint checking account statements show a minimal balance and no evidence was submitted to show that both the petitioner and T-B- accessed the account for any shared fiscal responsibility. The submitted joint utility bills and letter from the apartment community manager is evidence of joint residence but does not demonstrate that the petitioner married T-B- in good faith. The Internal Revenue Service (IRS) joint income tax return with T-B- for 2007 and insurance policy documents, without a probative account of their relationship, are insufficient to establish the petitioner's marital intentions.

Nonetheless, 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). In this case, however, the affidavits of the petitioner and others do not establish his claim of entering into his marriage in good faith because they contain insufficient information regarding his marital intentions. The petitioner submitted an unsigned, undated affidavit that was first submitted with his previous Form I-360 self-petition. Therein the petitioner stated that during the first three years of their marriage, from 2006 to 2008, T-B- was in jail. He recalled that despite not residing together, their relationship was solid as he visited her and she sent him letters. The petitioner indicated that T-B- resided in a halfway house for six months after her release and stated that her attitude later changed and she became loud and aggressive. In another affidavit, dated July 31, 2013 and also previously submitted in support of his earlier Form I-360 petition, the petitioner stated that he was introduced to T-B- by the wife of his friend, [REDACTED]. He stated that he and T-B- started communicating and he moved into an apartment with [REDACTED] and his wife. The petitioner recounted that after he married T-B-, she moved in with them. He further recalled that while T-B- was in jail from 2006 to 2008, he visited her, sent her money, filed a joint income tax return, and she sent him letters and cards. The petitioner stated that when T-B- "finally came home" on an unspecified date, he moved to another apartment he also shared with [REDACTED]. He repeated that T-B-'s attitude changed and she became loud and aggressive. The petitioner did not, in either affidavit, describe in probative detail his first meeting with T-B-, their courtship, wedding ceremony, joint residence or any shared experiences apart from the claimed abuse. The petitioner's affidavits lack the necessary insights into his reasons for marrying and his feelings about his wife.

The petitioner also submitted below, affidavits from three friends, all previously submitted in support of his earlier Form I-360 self-petition. [REDACTED] stated that he lived in the same neighborhood as the petitioner and T-B- and occasionally spent time with them. He recounted that T-B- went to jail a couple of months after they married, and the petitioner told him he wished she was home. [REDACTED] stated that he has known the petitioner and T-B- since 2006 and that the petitioner loved her. [REDACTED] stated that after the petitioner and T-B- got married, they stayed with him and his wife. [REDACTED] stated that when she would call the petitioner in 2009, T-B- was never around and that since T-B- returned from jail, the petitioner complained and was unhappy. While [REDACTED] stated

that the petitioner told him he loved T-B- before they married and [REDACTED] that he wished she was home, none of the affiants described any particular occasion shared with the former couple, apart from the claimed abuse, or provided further probative information concerning the petitioner's marital intentions. In addition, the petitioner submitted three letters of varying dates in 2007 that he received from T-B- while she was incarcerated. The record also contains photographs submitted earlier in support of the previous Form I-360 self-petition. The letters expressed T-B-'s writings to the petitioner and are not probative of his marital intentions toward her. The photographs show the petitioner and T-B- together on what appears to be their wedding day. However, without a probative account of his relationship with T-B- and his marital intentions toward her, the letters and photographs alone do not demonstrate that the petitioner married his wife in good faith.

On the appeal notice, the petitioner briefly asserts that he "submitted sufficient documents to establish a bona fide relationship" with T-B-. However, the petitioner has not submitted a brief or any additional evidence on appeal to overcome this ground for denial. The petitioner has not described in probative detail his first meeting with T-B-, their courtship, wedding ceremony, joint residence, or any shared experiences apart from the claimed abuse. The petitioner's affidavits lack the necessary insights into his reasons for marrying and his feelings about his wife. Consequently, he has failed to overcome this ground for denial by the director. The preponderance of the relevant evidence does not demonstrate that the petitioner entered the marriage with his spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

#### *Battery or Extreme Cruelty*

The petitioner did not establish below that his wife subjected him to battery or extreme cruelty. In his affidavit, the petitioner stated that after an unspecified time following her release from jail, T-B-'s attitude changed and she became loud and aggressive. He recalled that her behavior was difficult and dangerous and he feared she would have him deported. The petitioner stated that T-B- was destructive toward the apartment. Four photographs show a countertop with a brown circular mark on it, three photographs show a slatted window blind that is bent at the bottom, and the estimate is for less than \$300. The petitioner did not provide probative details about T-B-'s actions that resulted in the damage or indicate whether he was present. The petitioner stated that he had to check into a hotel on two occasions when T-B- "wanted to stab" him with a knife. The petitioner did not describe these incidents in probative detail or any other specific incidents of abuse. The motel bill shows only that the petitioner paid for a room from April 7 to April 8, 2012, but does not demonstrate that he stayed there because of T-B-'s treatment of him. He added that T-B- hid facts from him when they were dating including her issues with law enforcement and that she was adopted. In his July 31, 2013 affidavit, the petitioner repeated his previous statements that T-B-'s behavior worsened and he sometimes had to stay with [REDACTED] or check into a motel. He recalled that T-B-'s criminal record hindered their joint financial prospects and her ability to secure employment. The petitioner stated that he wasted the past four years and though he wanted to become a nurse, he could not because there was no peace at home. The petitioner's statements did not demonstrate that T-B- battered him, or that her behavior involved threatened violence, psychological or sexual abuse, or otherwise constituted extreme cruelty, as that term is defined at 8 C.F.R. § 204.2(c)(1)(vi).

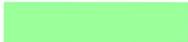
The petitioner also submitted the affidavits of three friends. [REDACTED] stated that the petitioner spent some nights with him when he was “forced out of his apartment” and also had to spend a couple days at a hotel. [REDACTED] added that he was not surprised that T-B- “left the apartment unceremoniously and did not show up for the interview.” [REDACTED] stated that “once in a while,” T-B- got angry, threw things, and the petitioner would calm her down. He added that he witnessed curses directed toward the petitioner on the telephone. [REDACTED] stated that after T-B- was released from jail, the petitioner complained about T-B-, and when [REDACTED] spoke with the petitioner on the telephone, she overheard “unusual yelling and shouting.” None of the affiants provided probative information concerning the claimed abuse or indicated that T-B- battered the petitioner, threatened him with violence, psychological or sexual abuse, or subjected him to other conduct constituting extreme cruelty as defined in the regulation.

The petitioner briefly asserts on appeal that he submitted sufficient documents to establish emotional abuse by his U.S. citizen spouse. However, we find no error in the director’s determination that the record did not establish the requisite battery or extreme cruelty below, and the petitioner has not submitted any additional evidence on appeal. Here, the petitioner’s affidavits and the affidavits from his friends, [REDACTED] did not provide probative details regarding specific incidents of abuse. Accordingly, a preponderance of the relevant evidence does not demonstrate that the petitioner’s spouse subjected him to battery or extreme cruelty, as that term is defined at 8 C.F.R. § 204.2(c)(1)(vi) and as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

#### *Qualifying Relationship and Corresponding Eligibility for Immediate Relative Classification*

Section 204(a)(1)(A)(iii)(II)(aa)(CC) of the Act allows a former spouse to file a self-petition for up to two years following the termination of a qualifying marriage as long as certain circumstances are present, as specified at subsections (aaa), (bbb) and (ccc). The director correctly determined that the petitioner had not established a qualifying relationship with T-B- as he did not respond to the director’s reasonable request for the petitioner’s present marital status, clearly posed in the RFE. In the director’s denial, she accurately stated: “In your response you provided no information regarding whether you and [T-B-] are still married, or if the marriage has been terminated, when it was terminated. Without this information USCIS cannot make a determination that a qualifying relationship existed within two years of filing this petition as required by statute.”

On appeal, the petitioner again is silent on the issue and has failed to respond to or address these two grounds for the director’s denial. The petitioner briefly asserts on the appeal notice that he “submitted sufficient documents” to establish a “bona fide relationship” and “emotional abuse.” The petitioner has not, however, made any assertions concerning his current marital status or demonstrating that he filed the instant self-petition within two years of the termination of his marriage to T-B-, if the marriage has in fact been terminated. The petitioner, who has the burden of proof in these proceedings, did not submit any new evidence with the instant Form I-360 self-petition but rather resubmitted documents from his earlier petition which were previously found to be insufficient to establish his eligibility. The petitioner has submitted no additional evidence on appeal and has again failed to provide his current marital status and information concerning whether and/or when his marriage to T-B- was terminated. Consequently, the petitioner has not established



that he had a qualifying relationship as the spouse of a U.S. citizen and that he is eligible for immediate relative classification based upon that relationship, as required by sections 204(a)(1)(A)(iii)(II)(aa)(AA) and 204(a)(1)(A)(iii)(II)(cc) of the Act.

*Conclusion*

On appeal, the petitioner has not overcome the director's grounds for denial. He has failed to demonstrate that he entered into the marriage with T-B- in good faith and that she subjected him to battery or extreme cruelty during their marriage. The petitioner has also failed to establish a qualifying spousal relationship with a U.S. citizen and his corresponding eligibility for immediate relative classification. Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act on these four grounds.

The burden of proof in these proceedings rests solely with the petitioner. 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. Accordingly, the appeal will be dismissed and the petition will remain denied for the above-stated reasons.

**ORDER:** The appeal is dismissed.