



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: **JAN 07 2015**

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)

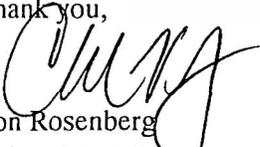
ON BEHALF OF SELF-PETITIONER:

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,

*for*   
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting Director of the 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.

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 she entered into the marriage with her United States citizen spouse in good faith.

On appeal, the petitioner submits a brief and 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 explained 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 explained 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, a citizen of Colombia, entered the United States on a nonimmigrant fiancée visa on November [REDACTED]. On January [REDACTED] she married R-R<sup>1</sup>, a United States citizen, in [REDACTED] Oklahoma. The petitioner filed the instant Form I-360 self-petition on October 7, 2011.<sup>2</sup> The director subsequently issued two Requests for Evidence (RFE) of, among other things, her entry into marriage with R-R- in good faith. The petitioner timely responded with additional evidence which the director found insufficient. 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 ground for denial and the appeal will be dismissed for the reasons stated below.

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

The director correctly determined that the petitioner failed to establish that she married R-R- in good faith. The copy of the joint checking account statement shows one deposit of \$100 on March 24, 2011, and a balance of \$45.00 as of February 13, 2013. The petitioner did not submit any transaction history on this account and there is no indication that it was used for any shared marital responsibilities. The [REDACTED] card reflects only that the petitioner was issued a membership card through R-R-'s business. The prenuptial agreement and the fact that the petitioner and R-R- participated in mediation during their divorce does not reflect the petitioner's marital intentions. The photographs show that the petitioner and R-R- were pictured together but without probative testimony, do not demonstrate that the petitioner married R-R- in good faith.

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

<sup>2</sup> On appeal, the petitioner indicates that she is divorced, although the record does not reflect the date of the divorce.

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 her declarations dated April 26, 2013, the petitioner stated that she signed up for an online dating service in 2003 and was contacted by R-R- through the dating service in July of 2009. She stated that she and R-R- corresponded by electronic mail, messenger, and telephone before meeting in person in September of 2010 when R-R- travelled to Colombia to see her. The petitioner recounted that he proposed during this trip but that she needed time to think about it so he returned to the United States. When R-R- returned to Colombia to visit her two to three months later, he proposed again which the petitioner accepted. The petitioner explained that the dating agency helped them to procure a fiancée visa and she entered the United States on November [REDACTED]. The petitioner further stated that after signing a prenuptial agreement, she married the petitioner on January [REDACTED]. The petitioner did not describe in further detail their courtship, wedding ceremony, shared residence and experiences apart from the abuse.

In support of the petition, to establish that she entered into the marriage in good faith, the petitioner also submitted: a letter from a representative from the online dating service, [REDACTED] a letter from her English language instructor, [REDACTED] and a letter from her friend, [REDACTED]. Ms. [REDACTED] stated that the couple dated, that they were loving, affectionate and respectful of one another, and that she helped them to prepare the fiancée visa petition. Ms. [REDACTED] did not state that she witnessed the couple together in person, and did not describe any joint meeting she had with them during the two times R-R- came to Colombia to meet with the petitioner. Mr. [REDACTED] stated that the petitioner shared that she came to the United States to marry R-R-, and that she seemed to care about him, was concerned about his health, and was having difficulty because of R-R-'s controlling nature. Ms. [REDACTED] stated that the petitioner told her that in Colombia, R-R- was attentive and loving, and that he changed completely when she got to the United States. Neither Mr. [REDACTED] nor Ms. [REDACTED] indicated that they observed the petitioner and R-R- as a couple, or mentioned anything about the courtship, wedding ceremony, shared residence or experiences of the petitioner and R-R- apart from the abuse.

On appeal, the petitioner states that her good faith intention is shown by the documentary evidence in support of the petition, and that the director erred in dismissing her affidavits and the other evidence. In her affidavit on appeal, the petitioner repeats her earlier statements and lists the activities that she enjoyed doing with R-R-. She explains that R-R- only opened up a checking account after she begged him to but he would not deposit money into the account or give her any money. She did not describe in further detail their courtship, wedding ceremony, shared residence and experiences apart from the abuse. On appeal, the petitioner also submits a second letter from Mr. [REDACTED] who states that the petitioner and R-R- had the appearances of a normal relationship in that he picked her up and dropped her off at class, and that he understood from the petitioner that they went shopping together, went out to eat, and went out on double dates. However, Mr. [REDACTED] does not express personal knowledge of the petitioner's intentions in entering into the marriage with R-R-.

Upon *de novo* review, the record fails to establish that the petitioner married R-R- in good faith. The letters from the various witnesses and the petitioner's declarations demonstrate that the petitioner married R-R- and lived with him for a total of about six months before and after the marriage ceremony, but do not establish by a preponderance of the evidence what her intention was in marrying him. The petitioner does not describe shared conversations with R-R-, their plans for the future, their interactions with each other's children, or other intimate settings that might show her good faith intention in marrying him. Further, none of her friends described any particular visit or social occasion in probative detail or otherwise provided detailed information establishing their personal knowledge of the relationship. When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the petitioner entered into marriage with a United States citizen in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

The petitioner has not demonstrated that she entered into marriage with R-R- in good faith. Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act on this ground.

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.

**ORDER:** The appeal is dismissed.