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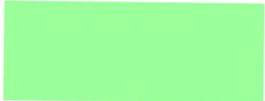
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090

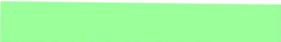


U.S. Citizenship  
and Immigration  
Services



Date: **JAN 07 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:

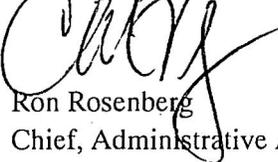


INSTRUCTIONS:

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 Acting Director, Vermont Service Center (“acting 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 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 his former U.S. citizen spouse. The acting director denied the petition for failure to establish that the petitioner married his ex-wife 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 an abused spouse self-petition under section 204(a)(1)(A)(iii) of the Act are further explained in 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 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.

*Pertinent Facts and Procedural History*

The petitioner is a citizen of Senegal who last entered the United States on June 18, 2007, pursuant to a grant of advanced parole. The petitioner married F-P-<sup>1</sup>, a U.S. citizen, on April [REDACTED] in [REDACTED] Ohio. The marriage ended in divorce on March [REDACTED]. The petitioner filed the instant Form I-360 self-petition on August 6, 2013. The acting director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's good-faith entry into marriage. The petitioner timely responded to the RFE with additional evidence, which the acting director found insufficient to establish the petitioner's eligibility. The acting director denied the petition and the petitioner filed an appeal.

We conduct review on a *de novo* basis. A full review of the record fails to establish the petitioner's eligibility. The petitioner's claims and the evidence submitted on appeal do not overcome the acting director's ground for denial and the appeal will be dismissed for the following reason.

*Entry into the Marriage in Good Faith*

In his initial affidavit,<sup>2</sup> the petitioner explained that the pastor of his church, Bishop [REDACTED] gave the petitioner F-P-'s phone number because he knew the petitioner was lonely. According to the petitioner, Bishop [REDACTED] had tried to introduce him to other women in the [REDACTED], Wisconsin, area several times, but the petitioner was not interested in those women. The petitioner asserted that Bishop [REDACTED] met F-P- in [REDACTED] Ohio, and that she was looking for a good man to marry. The petitioner claimed he called F-P- and that for the next three months, they talked on the telephone at least three or four times every day. He stated they had an instant connection and that they met in person for the first time in late February or early March of 2012 when F-P- drove from Ohio to meet him and his family in Wisconsin. He further stated that he drove back to Ohio with her in her car, bringing some of his belongings with them, that they got their marriage license in Ohio, and that after a few days, he flew back to Wisconsin. He contended he was in Wisconsin for a few weeks, then went back to Ohio on April 8<sup>th</sup> or 9<sup>th</sup>, and got married on April [REDACTED]. The petitioner briefly recounted their wedding in F-P-'s church, and that he took her family out to eat the following day because it was F-P-'s birthday. He

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

<sup>2</sup> The petitioner's affidavit appears to be erroneously dated June 5, 2012, more than a year before his Form I-360 self-petition was filed, and notarized almost a year later on May 5, 2013.

explained that because of his job, he returned to live in Wisconsin for a few months, but then moved to Ohio to be with F-P- on August 25<sup>th</sup>. In the meantime, he claimed he visited her from May 26 until May 30. The rest of his affidavit described F-P-'s mistreatment of him.

In response to the RFE, the petitioner submitted an additional affidavit, dated January 4, 2014, attempting to clarify the deficiencies noted by the director. The petitioner stated that he was confused and "not thinking clearly about the dates and specific events" discussed in his previous affidavit. He also asserted that his English is not good and that he cannot read or write in any language. According to the petitioner, he had actually met F-P- once before Bishop [REDACTED] gave him her telephone number, but he barely remembered meeting her. In addition, he stated that the first time he got to know F-P- in person must have been in December 2011 if that is what the plane ticket in the record indicated. He also stated that if another plane ticket indicated he flew to Ohio in February 2012, then that must be correct, even though he had said during his interview that he had flown to Ohio to visit F-P- in January, March, and April 2012. The petitioner explained that because he is illiterate, he must rely on his memory to remember dates and times, which he is not good at doing.

On appeal, the petitioner submitted a third affidavit, dated March 24, 2014. The petitioner repeats on appeal that he did not explain himself well because he cannot read and he did not understand the immigration officer's questions during his interview. He asserts he flew to Ohio many times, and also drove there once with F-P-, but does not remember the exact dates. He claims he was just happy to meet someone who wanted to marry him because he was lonely and getting old. He states that he felt a connection to F-P- and thought they wanted the same things in life.

Even assuming that due to his illiteracy or lack of English language skills, the petitioner did not remember the exact dates he visited F-P- and whether he flew or drove to see her, the petitioner did not describe in probative detail the couple's courtship, wedding ceremony, shared residence, and experiences apart from the abuse. Statements from the petitioner's friend and nephew also failed to provide more information regarding the petitioner's marital intentions. For instance, the petitioner's nephew, who submitted a total of three affidavits, asserted that the petitioner married F-P- in good faith but described only that the petitioner was lonely and naïve when F-P- "sweet-talked him." The petitioner's friend, [REDACTED] briefly described talking to F-P- on the telephone. Although both affiants indicated they attended the couple's wedding, their statements did not describe, for example, any specific contact with the petitioner and F-P-, any particular visit or social occasion with the couple, or any interactions with the couple that would establish their personal knowledge of the relationship. In addition, the letter from Bishop [REDACTED] stated only that he gave the petitioner F-P-'s telephone number and provided no other probative details regarding the petitioner's marital intentions. Neither the petitioner's statements nor the statements from his friends and nephew provide the necessary detail to demonstrate the petitioner's good faith entry into his marriage. The remaining relevant documents show that the couple was photographed together and flew to visit each other. Considering all of the evidence, the petitioner has failed to establish by a preponderance of the relevant evidence that he entered the marriage in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

*Conclusion*

On appeal, the petitioner has failed to establish by a preponderance of the relevant evidence that he entered the marriage in good faith. He is consequently ineligible 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 not been met.

**ORDER:** The appeal is dismissed.