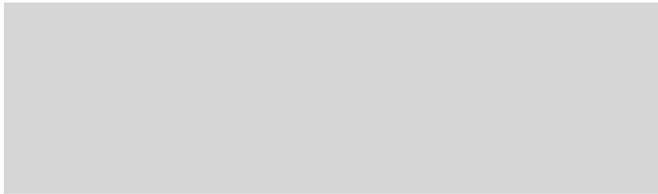


(b)(6)

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: **JUN 02 2015**

FILE #: [REDACTED]  
PETITION RECEIPT #: [REDACTED]

IN RE: 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 PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink that reads "R. Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting 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 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 a United States citizen.

The director denied the petition, determining that the petitioner did not demonstrate that she entered into a qualifying spousal relationship in good faith.

On appeal, the petitioner submits a brief and additional evidence.

#### *Applicable Law*

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 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 explained further 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 standard and guidelines for a self-petition filed under section 204(a)(1)(A)(iii) of the Act are explained further 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.

*Pertinent Facts and Procedural History*

The petitioner was born in Mexico and divorced her first spouse in Mexico in [REDACTED] of 1991. She last entered the United States on July 9, 2011, as a B-2 nonimmigrant visitor. She married, H-D-, a U.S. citizen, on [REDACTED] 2011, in [REDACTED] Texas, and divorced him on [REDACTED] 2012.<sup>1</sup> The petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, on April 28, 2014.<sup>2</sup> On May 8, 2014, the director issued a Request for Evidence (RFE) of the petitioner's good moral character, and she timely responded. On July 9, 2014, the director issued a second RFE that the petitioner entered into marriage with H-D- in good faith. The petitioner responded with additional evidence which the director found was insufficient and denied the petition on this ground. The petitioner filed a timely appeal.

We review these proceedings de novo. A full review of the record, including the evidence submitted on appeal, does not establish the petitioner's eligibility for the following reason.

*Good-Faith Entry into Marriage*

The relevant evidence submitted below and on appeal is not sufficient to demonstrate the petitioner's good-faith entry into her marriage. In her initial affidavit, the petitioner stated that she first met H-D- after she came to the United States to visit her sister. The petitioner stated that she was reading the

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

<sup>2</sup> An alien who has divorced an abusive United States citizen may still self-petition under this provision of the Act 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). In this instance, the director did not question the petitioner's abuse claim and the petition was filed within two years of her divorce to H-D-.

newspaper classified section on [REDACTED] 2011, and saw a job announcement to work in a home. According to the petitioner, she went to a job interview at H-D-'s home on [REDACTED] 2011 with her niece, and he asked where she was living. The day after her job interview, H-D- showed up at the petitioner's sister's home with a bouquet of flowers, but the petitioner was not there. The petitioner asserted that H-D- visited again the day after that, and dined with the petitioner and her family, conversing "well into the evening." She did not describe their meal or their conversation or provide any further description of that visit. According to the petitioner, H-D- came back to her sister's house every day to spend more time with her, and soon offered her the job working for him. The petitioner indicated that she moved into H-D-'s house on [REDACTED] 2011, to begin her work as helper, and she indicated that H-D- immediately proposed to her on [REDACTED] 2011. She indicated that she "did not totally reject his proposal," but explained that she intended to return to Mexico for Christmas. The petitioner stated that between [REDACTED] H-D- was a "gentleman," and that they "exchanged some biblical passages and some life experiences," while the petitioner performed her work duties for H-D-, including going on walks with H-D- and his dogs. According to the petitioner, H-D- asked her to accompany him to [REDACTED] Texas on [REDACTED] 2011 "because he needed to obtain his birth certificate," but when they arrived at the courthouse he pleaded with her to marry him, and she accepted and they married on the spot. The petitioner indicated that although she had only known H-D- for 10 days, she married him in good faith and "felt this would be a wonderful marriage," and that their marriage was "based on mutual love and respect." The remainder of the petitioner's statement focused on the H-D-'s abuse, which began immediately after the day of their marriage. Other than a general assertion that she married H-D- in good faith at the courthouse after working for him for approximately four days, the petitioner did not provide any probative details about her intentions at the time of the marriage for purposes of establishing her good-faith entry into the marriage. The petitioner provided a photograph of herself with H-D- at a church function as "proof of relationship," but it is undated and does not otherwise establish her good-faith entry into marriage with him.

In response to the director's second RFE, the petitioner submitted a second statement in which she asserted that it was challenging for her to give more "feedback" because her marriage to H-D- was admittedly brief. The petitioner indicated that she believed that when people "reach a certain age . . . all decisions should be taken serious[ly] and confidence [sic] as well in regard of the decisions being made," and that because of their respective ages, she "never had any doubts" about marrying H-D-. She indicated that despite the 35-year difference in their ages, they had "common grounds," including his prior work "in the educational system" and her prior work as a teacher. The petitioner also suggested that she believed they shared "a common set of religious and moral values." Although the petitioner indicated that she had faith in her decision to marry H-D-, she did not include any additional details about her intentions and their time together before and after their marriage.

On appeal, the petitioner provides a third statement in which she indicates that she believed that she and H-D- were "of the age to appreciate the seriousness of their actions" and that she believed H-D- was a gentleman and a man of God, but does not provide any additional insight into their relationship. She indicates that she initially refused to marry him, and was surprised when he took her to the courthouse

and pleaded with her to marry him, but acquiesced and married him that same day. The petitioner does not provide any further discussion of her intentions other than to say that she “had no problems envisioning herself in a lifelong marriage to him because of the gentlemanly way he had treated her and presented himself as a God[-] fearing man.” The petitioner does not provide any additional probative information such as details of the wedding ceremony with H-D-. She indicates that they returned home and “consummated their marriage, and life went downhill after that.”

The petitioner cites to several cases, suggesting that “the principal question for the USCIS adjudicator is whether the couple intended at the time of marriage to establish a life together.” *See, e.g., Agyeman v. INS*, 296 F3d 871, 883 (9th Cir. 2002); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983). In fact, in these proceedings the burden is on the petitioner alone to establish that she entered into her marriage in good faith. She is not required to establish that she and H-D- both entered into their marriage in good faith. Regardless, she has not provided sufficient evidence to establish her own good-faith entry into the marriage. Although their courtship and marriage was admittedly short, she does not, for example, provide a description of their wedding ceremony, describe their witnesses, any post-marital meals or wedding celebrations, or other shared marital experiences, other than describing H-D-’s battery and extreme cruelty toward the petitioner immediately after their marriage. She asserts that they shared a common interest, but only generally referenced their prior work in the field of education and her belief that they had common moral and religious values, without describing their common work and common values. Accordingly, the petitioner has not established by a preponderance of the evidence that she entered into marriage with H-D- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

On appeal, the petitioner has not demonstrated that she entered into marriage with H-D- in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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 (AAO 2010). Here, the petitioner has not met that burden. Accordingly, the appeal will be dismissed and the petition will remain denied for the above-stated reason.

**ORDER:** The appeal is dismissed.