



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **JUN 23 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:

NO REPRESENTATIVE OF RECORD

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,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the petition. 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 U.S. citizen spouse.

The director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on a finding that the evidence did not establish that the petitioner had a qualifying relationship with his spouse, was eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act, had been battered or subjected to extreme cruelty by his spouse, and entered into the marriage in good faith. On appeal, the petitioner submits a statement 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 U.S. citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the U.S. 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 regulation at 8 C.F.R. § 204.2(c)(1) provides, 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 or the self-petitioner's child, and must have taken place during the self-petitioner's marriage to the abuser.

\* \* \*

(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 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 citizenship of the United States citizen . . . . It must also 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 . . . .

\* \* \*

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or have taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other forms of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuses may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

\* \* \*

(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 native and citizen of Pakistan, last entered the United States on June 4, 2013 as a B-1 nonimmigrant visitor. He married R-S-,<sup>1</sup> a U.S. citizen, on [REDACTED] 2004 in [REDACTED] New Jersey. The petitioner filed the instant Form I-360 on May 27, 2014. The director issued two Requests for Evidence (RFE) of, among other things, the petitioner's qualifying relationship, battery or extreme cruelty by R-S-, and good-faith marriage. The petitioner responded to the RFEs with additional evidence. The director found the evidence insufficient to establish that the petitioner had a qualifying relationship with R-S- and was eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act, that he had been battered or subjected to extreme cruelty by R-S-, and that he married R-S- in good faith. The director denied the petition and the petitioner filed a timely appeal.

We review these proceedings *de novo*. The preponderance of the evidence submitted below and on appeal does not demonstrate that the director's decision to deny the petition was in error. Therefore, we will dismiss the appeal.

### *Qualifying Relationship and Corresponding Eligibility for Preference Immigrant Classification*

The petitioner has demonstrated a qualifying relationship with his U.S. citizen spouse and, accordingly, that he is eligible for immigrant classification under 201(b)(2)(A)(i) of the Act. The director's finding to the contrary will be withdrawn.

The petitioner was married twice before marrying R-S-.<sup>2</sup> To demonstrate that he divorced his second wife, the petitioner submitted below a photocopy of a Divorce Deed issued in Pakistan, an affidavit by the petitioner declaring that he was divorced, and an affidavit by his second wife declaring the same. Based upon information from the Department of State, the director found this to be insufficient evidence of the divorce. On appeal, the petitioner has submitted a Divorce Registration Certificate issued by the Government of [REDACTED] Pakistan. This evidence establishes that the petitioner divorced his second wife on [REDACTED], 2003. Therefore, the petitioner has established that he has a qualifying relationship as the spouse of a U.S. citizen and is eligible for immigrant classification based upon that relationship, as required by subsections 204(a)(1)(A)(iii)(II)(aa) and (cc) of the Act. The director's contrary determination is withdrawn.

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

<sup>2</sup> The termination of the petitioner's first marriage is not at issue in this proceeding.

*Battery or Extreme Cruelty*

The preponderance of the evidence does not demonstrate that the petitioner was battered or subjected to extreme cruelty by his U.S. citizen spouse. The petitioner claims in his statement that R-S- expected him to be her “slave” by doing the cooking and cleaning of the house because she had no time to do so while working two jobs, pressured him to work in the United States without employment authorization, refused to have sex because she feared becoming pregnant, threatened to ruin his career, and delayed filing the paperwork for his application for permanent residency. He asserts that this was “verbal and mental torture” and that as a result of being mistreated by R-S-, he “went into deep depression and became a heart patient.”

The petitioner’s friends stated generally, in their affidavits submitted below, that R-S- was mistreating the petitioner. [REDACTED] indicated that R-S- used to complain to him that the petitioner was not working. Mr. [REDACTED] also stated that the petitioner told him that R-S- “is not cooperation [sic] in sexual contact” and that “he is living in miserable condition[s] like a slave, cooking and cleaning of [sic] house.” According to Mr. [REDACTED], R-S- “was torturing [the petitioner] and kept him in captivity and used to pressurize him for illegal jobs on which he was not agreed [sic].” [REDACTED] claims that the petitioner told him that R-S- delayed filing his immigration paperwork, teased and abused him in front of others, forced him to clean the house, cook, and do laundry, and forced him to work without authorization. [REDACTED] indicates that the petitioner reported being “under pressure and wife is not cooperating, not filing her immigration papers etc. [sic]” and that she “wanted that he violates the law, over stay, and work illegally so that he be like a slave and dependent on her because she was doing two jobs and has no time for cooking, cleaning and laundry [sic].”

The petitioner also submitted medical documentation as evidence to support his claim of battery and extreme cruelty. A letter from [REDACTED] and [REDACTED] Pakistan indicates that the petitioner sought treatment there on April 13, 2010. It states that the petitioner “was suffering from (Deperatian)” and was prescribed medication. This letter, which is handwritten, is partially illegible and does not clearly identify a medical condition in English. The petitioner also submitted a letter from [REDACTED] Administration Manager, [REDACTED] [REDACTED]), stating that the petitioner began receiving treatment there for Cardiac Angina disease in February 2011 and was prescribed medication. The petitioner submitted additional medical documentation on appeal, including a report from [REDACTED] entitled [REDACTED] Study, a cardiac scan, a report from the [REDACTED] laboratory results, and untitled, handwritten notes. In his statement on appeal, the petitioner indicates that he provided his doctors with the “reason of [his] sufferings,” but that “no doctor/specialist mention [sic] the causes of disease and they never issue certificates as the patient wants.” Although the petitioner addresses the director’s finding that the medical documentation he submitted did not indicate the cause of his medical conditions, the medical documentation in the record, including the new evidence submitted on appeal, does not indicate that the petitioner’s medical conditions were related to his relationship with R-S- or any abuse he claims to have suffered.

The preponderance of the relevant evidence does not demonstrate that the petitioner was subjected to battery or extreme cruelty by R-S- during his marriage. In his own affidavits, the petitioner makes

generalized allegations of mistreatment but does not describe in detail any specific instances of abuse. Similarly, his friends provide only vague statements regarding R-S-'s demands of the petitioner but do not discuss particular incidents. Additionally, the evidence does not establish that R-S-'s request that the petitioner assist with household responsibilities while she worked two jobs, or her refusal to have sex due to a fear of pregnancy, were abusive behaviors. Furthermore, none of the medical documents the petitioner submitted indicate that the petitioner has a health condition related to, or affected by, his marriage with R-S-. When considered in its totality, the evidence in the record is insufficient to establish that R-S-'s behavior toward the petitioner involved violent acts or an overall pattern of violence amounting to battery or extreme cruelty as described in 8 C.F.R. § 204.2(c)(1)(vi).

### *Good-Faith Marriage*

A preponderance of the relevant evidence does not demonstrate that the petitioner entered into his marriage with R-S- in good faith. Although traditional forms of joint documentation are not required to demonstrate good faith marriage under section 204(a)(1)(A)(iii) of the Act, the petitioner must satisfy his burden of proof. In lieu of traditional documentation, the petitioner may submit, among other evidence, "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 . . . and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered." 8 C.F.R. § 204.2(c)(2)(vii).

In his affidavit submitted below, the petitioner stated that he met R-S- through a mutual friend during a visit to the United States in July 2003 and that they liked each other. He asserted, "After a good understanding on my next visit to USA, we married on [REDACTED] 2004. It was a family gathering at the bride's brother's residence . . . . It was a marriage in good faith due to love and affection, and living together as a good husband and wife." The petitioner also addressed his claim of good-faith marriage in response to the director's two RFEs. He declared in an August 8, 2014 statement, "I would like to say that I married [R-S-] in good faith, cohabited and had conjugal relationship with her." In a November 3, 2014 statement, he asserted, "Simply, we met, we liked each other and in the presence of her family and friends we married publicly . . . ." He also indicated that he lacked documentary evidence of his good-faith marriage because he was not aware he would need it in the future.

In his statement on appeal, the petitioner claims, "We met, we agreed and her brother and sisters were also involved, and we married in a traditional Pakistani and Muslim style of marriage in a gathering." He further asserts that the affidavits and photographs he previously submitted are sufficient evidence of his marriage in good faith, and requests that we contact the writers of the affidavits in Pakistan for personal confirmation that the information in their affidavits was correct.

The petitioner also submitted below affidavits from friends and relatives who provide only general statements such as that the petitioner and R-S- were married and attended family gatherings. For instance, [REDACTED] states only that he attended the petitioner's marriage and [REDACTED] generally indicates that the petitioner married R-S- in New Jersey in 2004. Similarly, the

petitioner's son, [REDACTED] and daughter, [REDACTED] claim that the petitioner married R-S- in 2004 in the United States, that R-S- visited Pakistan several times after the wedding, and attended Ms. [REDACTED] wedding, as well as several other family gatherings.

[REDACTED], the petitioner's son-in-law, claims that the petitioner and R-S- attended his marriage ceremony in [REDACTED] 2006 in [REDACTED] Pakistan, and also visited him in September 2008. The petitioner's brother, [REDACTED] confirms that the petitioner married R-S- in the United States. Mr. [REDACTED] also claims that the petitioner and R-S- stayed with him in his home in [REDACTED] Pakistan for three or four days, and that R-S- went shopping with [REDACTED] wife. Similarly, the petitioner's other brother, [REDACTED], repeats that the petitioner married R-S- in the United States, visited Pakistan with her, and that R-S- went shopping with [REDACTED] wife.

We have reviewed all evidence the petitioner submitted below and on appeal, and it is insufficient to establish that he married R-S- in good faith. The petitioner's own affidavits provide only vague and brief descriptions regarding his meeting, courtship, the circumstances of his decision to marry R-S-, and the wedding ceremony. Additionally, the affidavits from his friends and family mention the courtship and marriage ceremony only briefly, without sufficient detail. They do not reflect personal knowledge of the petitioner's first meeting with R-S-, his feelings about her or his discussions about her with his friends and family, their behavior as a couple prior to and after their marriage, specific shared experiences as a couple, or details of their wedding ceremony. Although the petitioner also submitted his marriage certificate and photographs of him and R-S- together and with their families, these only demonstrate that they were married and spent time together and are insufficient to demonstrate his intentions in marrying R-S-. Accordingly, the evidence does not establish that the petitioner entered into marriage with R-S- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

The record does not demonstrate by a preponderance of the evidence that the petitioner was subjected to battery or extreme cruelty and that he married his U.S. citizen spouse in good faith. The petitioner is therefore ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In these proceedings, the petitioner bears the burden of proving his eligibility for the benefit sought. 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.

**ORDER:** The appeal is dismissed.