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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: **MAY 07 2015**

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 PETITIONER:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

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 cursive script that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting Director of the Vermont Service Center (the director) denied the immigrant visa petition (Form I-360) and the matter is now before the 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 petition for failure to establish that the petitioner entered into the marriage in good faith, and that he resided with his spouse. 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 states, in pertinent part, that:

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:

(v) *Residence.* . . . The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser . . . in the past.

\* \* \*

(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.

\* \* \*

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together. . . . Employment records, utility receipts, school records, hospital or medical records, birth certificates of children . . . deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

\* \* \*

(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 Guyana who entered the United States without inspection on or around February 22, 2003. The petitioner married T-G-,<sup>1</sup> a U.S. citizen, on [REDACTED]. He filed this Form I-360 petition on September 21, 2012. On July 25, 2013, the director sent a Request for Evidence (RFE), to which the petitioner timely responded. The director denied the petition on March 20, 2014, on the basis that the petitioner failed to establish good-faith entry into his marriage, and that he resided with T-G-. The petitioner filed a timely appeal.

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.

*Joint Residence*

On the Form I-360, the petitioner stated that he lived with T-G- from December 2006<sup>2</sup> to May 23, 2010, and that they last resided together at [REDACTED] New York. In his initial

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

<sup>2</sup> In his personal statement, the petitioner indicated that he met T-G- on an on-line dating site in June 2007 and that he first met her in person in September 2007.

statement submitted with the Form I-360, the petitioner indicated that he lived in [REDACTED] New York when he met T-G-, and that she lived in [REDACTED] Texas. Their marriage certificate also reflects that the petitioner resided in [REDACTED] New York, and T-G- resided in [REDACTED] Texas when the couple married on [REDACTED]. The petitioner recounted in his initial statement that prior to their marriage, he and T-G- alternated visiting one another in New York and Texas every four to six weeks. The petitioner indicated that T-G- continued to live in Texas after the marriage because she attended school there and would come to visit New York as much as possible. The petitioner further indicated that "throughout this time" he "would spend about three months in Texas" but was "unable to move to Texas because [he] could not get a job there." The petitioner does not provide specific dates of his claimed Texas residence and does not provide the actual address.

In response to the director's RFE, the petitioner submitted a letter restating information contained in his initial letter. In addition, the petitioner stated that he had no evidence of his stay in Texas because T-G- purchased everything with her credit card, and he did not save flight information or receipts. The petitioner provided no probative details regarding dates that he allegedly lived in Texas, and the locations of the shared residence and routines with T-G-.

Letters submitted with the Form I-360 from [REDACTED] and [REDACTED] do not state or indicate that the petitioner moved to Texas to live with T-G- after his marriage, and fail to otherwise establish the petitioner's residence with T-G-. In letters submitted in response to the director's RFE, [REDACTED] and [REDACTED] stated that the petitioner moved to Texas after he married, but returned to New York a little while later for financial reasons. The friends do not address why their initial letters did not mention that the petitioner moved to Texas after he married. Regardless, the letters fail to describe or provide specific information about the petitioner's claimed residence in Texas. Similarly, letters from [REDACTED] and T-G-'s father, submitted in response to the director's RFE, indicated generally that the petitioner moved to Texas for a short period after the marriage, but failed to provide any detailed information relating to the petitioner's claimed residence in Texas.

Two airline boarding passes submitted with the Form I-360 reflect that the petitioner traveled from Texas to New York on December 2, 2008, and on June 14, 2009. The boarding passes fail, however, to demonstrate the petitioner's residence in Texas.

On appeal, the petitioner reiterates, without further details, that he and T-G- lived together in Texas. He submits a [REDACTED] Texas police report to establish his joint residence, however, the report reflects that T-G-called the police on June 3, 2011, because she believed the petitioner had entered her apartment unannounced and without permission, and he "was not supposed" to be there. A [REDACTED] police report submitted on appeal also fails to establish the petitioner's joint residence with T-G-, as the report relates to a phone and texting harassment claim against the petitioner, and does not contain any indication that the petitioner resided with T-G-. Both reports are dated after the petitioner's claimed joint residence with T-G- ended. A second affidavit from T-G-'s father, submitted on appeal, restates generally that "after their union" the petitioner lived with T-G- in Texas "for a brief period." However, he again provides no specific dates or information about the petitioner's residence in Texas. In addition, the petitioner's friend, [REDACTED] indicates in a

second affidavit that he purchased several airline tickets for the petitioner to travel to Texas. However, he does not indicate that the petitioner resided in Texas with T-G-.

Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33), states that “the term “residence” means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.” The preamble to the interim rule regarding the self-petitioning provisions cited section 101(a)(33) of the Act as the binding definition of “residence” and clarified that “[a] self-petitioner cannot meet the residency requirements by merely . . . visiting the abuser’s home in the United States while continuing to maintain a general place of abode or principal dwelling place elsewhere.” 61 Fed. Reg. 13061, 13065 (Mar. 26, 1996). In the present matter, the petitioner has failed to provide detailed and probative discussions of his claimed joint residence with T-G-. The letters submitted on his behalf also fail to provide sufficient detail to establish their joint residence. Moreover, although the evidence reflects that the petitioner visited T-G- in Texas, he maintained his principal dwelling place in ██████████ New York, while T-G- went to school, was employed and resided in Texas throughout the marriage. Accordingly, the petitioner failed to establish by a preponderance of the evidence that he resided with his U.S. citizen spouse, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

#### *Good-Faith Marriage*

The petitioner stated in his initial statement that he met T-G- in June 2007 on an online social website, and that they frequently corresponded online and spoke over the phone. The petitioner generally described visiting each other every four to six weeks during this time but provided no other details regarding the couple’s courtship. Similarly, the petitioner stated only that he and T-G- were engaged on August 24, 2008, and that they married in New York in December 2008, but provided no specific information to describe either occasion.<sup>3</sup> The petitioner recounted that he helped T-G- financially, paid her monthly car lease, and assisted with their cell phone bills, but he provided no further details about the financial support. Other than as it relates to abuse, the petitioner provided no additional details regarding the couple’s courtship, engagement, wedding ceremony, shared experiences, and the petitioner’s intentions for marrying T-G-.

Letters from friends, submitted with the petitioner’s Form I-360, also fail to demonstrate the petitioner’s good-faith entry into his marriage with T-G-. ██████████ indicated that he was aware of the petitioner’s marriage to T-G- through conversations with the petitioner. ██████████ and ██████████ stated generally that they socialized with the petitioner and T-G- at the petitioner’s home in New York. Similarly, ██████████ indicated that he met T-G- a few times in New York. None of the letters provide details of any specific interactions with the petitioner and T-G-, and the letters lack probative details about the petitioner’s relationship with T-G-.

The petitioner submitted a second letter in response to the director’s RFE, restating information contained in his initial letter, and discussing generally T-G-’s first visit to New York to visit him, and his first visit to Texas to see T-G-. He indicated that he proposed to T-G- when she was in New

<sup>3</sup> The petitioner stated in his affidavit that he and T-G- married on December 29, 2008. His marriage certificate reflects, however, that the marriage occurred on December 30, 2008.

York for her birthday, and that he joined T-G- for a short time in Texas a few weeks after they married. Although the petitioner's second letter offers some additional information, the new information does not include specific details of the petitioner's courtship and relationship history with T-G- other than as it relates to the abuse. The petitioner stated further that he had no evidence of his stay in Texas because T-G- purchased everything with her credit card, and he did not save flight information or receipts. He also indicated that T-G- did not claim him as her husband for tax purposes or put him on her medical plan because he had no Social Security number.

Additional letters from the petitioner's friends and family, submitted in response to the director's RFE, also fail to demonstrate that the petitioner entered into his marriage with T-G- in good faith. Letters from [REDACTED] restated prior claims, and indicated that the petitioner moved to Texas for an unspecified period of time after the marriage. The letters provided no specific details about visits or interactions with the couple. Similarly, [REDACTED] and T-G-'s father's statements, indicating that they socialized with the petitioner and T-G- in New York, lack meaningful details with regard to the interactions and the petitioner's relationship with T-G-.

With his Form I-360, the petitioner also submitted copies of undated letters and cards that T-G- sent to him expressing love and happiness, as well as emails sent between the petitioner and T-G- in 2007 and 2008. The correspondence includes a Father's Day card and a letter, including signatures and hand-drawn pictures from T-G- and three children. The petitioner does not, however, acknowledge T-G-'s children, describe their presence in the relationship, or otherwise clarify the existence of these children. The petitioner also submitted photographs, a jewelry store receipt reflecting a purchase by the petitioner on August 30, 2008, and airline boarding passes reflecting his travel between Texas and New York on December 2, 2008, and on June 14, 2009.

On appeal, the petitioner reasserts generally that he entered into the marriage with T-G- in good faith. He submits a second affidavit from T-G-'s father that also reasserts that the petitioner and T-G- married in good faith. In addition, the petitioner's friend, [REDACTED] states without further detail in a second affidavit, that he met T-G- "a few times." None of the statements provide additional or detailed information to demonstrate the petitioner's good-faith intent when he married. Banking information submitted on appeal reflects that money was wired between two accounts on June 5, 2009. The petitioner indicates that this information relates to the case he and T-G had against a prior immigration attorney and that the account listed in the wire transfer was a joint account shared with T-G-.

Upon review, the petitioner failed to establish, by a preponderance of the evidence, that he entered into his marriage with T-G- in good faith. Although the petitioner provides explanations for the lack of documents indicating shared accounts, the petitioner's statements lack detailed information about his relationship and shared life with T-G-. Letters from friends and family also lack probative descriptions of interactions that would establish the petitioner's relationship and marital intentions with T-G-. Overall, the record does not establish that the petitioner entered into the marriage in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.



*Conclusion*

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); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.