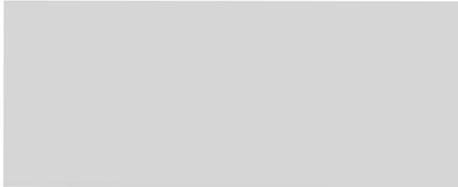




U.S. Citizenship  
and Immigration  
Services

(b)(6)



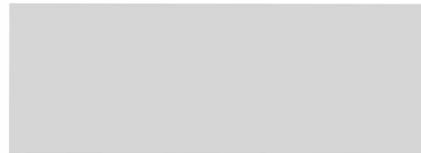
DATE: **MAY 11 2015**

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.

Thank you,

*for*  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director) denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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 the petitioner entered into the marriage with his spouse, a United States citizen, in good faith, and that she subjected him to battery or extreme cruelty during their marriage. On appeal, the petitioner submits a brief and a store receipt.

*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 explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(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.

\* \* \*

(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 is a citizen of Jordan who entered the United States on November 12, 2012, as an I nonimmigrant representative of foreign media. On [REDACTED] 2013, the petitioner married B-P<sup>1</sup>, a United

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

States citizen, in Ohio. The petitioner filed the instant Form I-360 self-petition on April 1, 2014. The director subsequently issued a Request for Evidence (RFE) of, among other things, the requisite battery or extreme cruelty and the petitioner's entry into the marriage with his wife in good faith. The petitioner timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. 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 overcome the director's grounds for denial. The appeal will be sustained for the following reasons.

*Good Faith Entry into the Marriage*

The director erred in finding that the petitioner failed to establish that he entered into the marriage with his spouse in good faith. In the petitioner's affidavit, he described in probative detail his brief courtship with and engagement to B-P-, their wedding day, and shared experiences. He detailed his feelings for B-P- and described his good-faith intentions to marry her, spend his life with her, and raise her children as his own. The petitioner credibly recounted how he first met B-P- online in February 2013, began communicating via the internet and telephone, and met in person for the first time in Ohio where she and her five children resided with her brother. He explained that his feelings for B-P- grew and he visited her several times in March 2013, enjoyed her company and her children's, and could see himself as part of the family. The petitioner recounted that by the end of March, he and B-P- decided to marry so they secured a marriage license and made plans to wed in [REDACTED]. He credibly recalled several subsequent experiences shared with B-P- and her children, spoke of his level of commitment to her and his expanding family, and described his wedding day in detail. The petitioner recounted his pride in securing a home in which they could all live together in Pennsylvania, enrolling the children in school, and later attending to B-P-, the children, and all their needs when she was admitted to the hospital for ten days.

In addition to the petitioner's personal affidavit, he submitted an affidavit from [REDACTED] who recounted how the petitioner often visited her convenience store. She stated that they spoke many times when he dated and first married B-P-, and recounted that the petitioner expressed how happy he was to find someone to share his life with. Ms. [REDACTED] further stated that she had never seen the petitioner happier than when he married B-P- and observed that when B-P- was sick, the petitioner took care of her children, drove them to and from school, took them to visit her in the hospital, and grew even more attached to the children. The petitioner also submitted a joint lease agreement and correspondence from the property manager, B-P-'s medical billing statements related to her hospitalization, and numerous photographs of himself and B-P- including when they obtained their wedding license, their wedding day, when B-P- was in the hospital, and on various occasions with her children.

A full review of the relevant evidence submitted establishes that the petitioner married his spouse in good faith. The petitioner has submitted his own detailed, credible affidavit of his good-faith entry into marriage, a joint lease agreement and related correspondence, photographs of himself and his wife, and an affidavit of a friend who demonstrated her personal knowledge of the relationship. When viewed in

the totality, the preponderance of the evidence demonstrates that the petitioner entered into the marriage with his wife in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

#### *Battery or Extreme Cruelty*

The director erred in finding that the petitioner failed to establish that his wife subjected him to battery or extreme cruelty. In addition to his and Ms. [REDACTED] affidavits, the petitioner submitted below the affidavits of three other friends, two psychological evaluations, and copies of text and social media messages between himself and B-P-. In his affidavit, the petitioner recounted in detail how throughout the marriage, B-P- abused him emotionally, physically, sexually and financially. He described her frequent violent outbursts, her destruction of nearly all of his clothing, and multiple incidents during which she forced him to engage in sexual activity against his will. The petitioner provided probative, credible testimony concerning B-P-'s near constant emotional and financial manipulation, including demands that he pay for all of their expenses and support her five children from prior relationships. The petitioner also described an incident when B-P- feigned an arrest to extract money allegedly for bail, and had a friend pose as a divorce attorney to secure the money under false pretenses.

In her affidavit, Ms. [REDACTED] explained that she was an eye-witness to the telephone call claiming that B-P- had been arrested and asking the petitioner for money to pay her bail and support her children. In their affidavits, Ms. [REDACTED], [REDACTED] and [REDACTED] all attested to their personal knowledge of B-P-'s emotional manipulation of the petitioner and her frequent demand for money he did not have and was consequently forced to borrow from them and other friends. These affiants and [REDACTED] probatively described the decline in the petitioner's health and mental wellbeing that they observed during his marriage to B-P-. Ms. [REDACTED] further recounted how she personally witnessed B-P- threatening to ruin the petitioner, make up false and serious allegations against him, and have him deported. She recalled in detail the afternoon on which B-P- submerged the petitioner's clothing in a bathtub filled with bleach and how she helped him dispose of the ruined garments. In her evaluations, psychologist [REDACTED] M.A., explained that she counseled the petitioner on multiple occasions and diagnosed him with Adjustment Disorder with Mixed Anxiety and Depression and Major Depressive Disorder Single Episode, Severe as a result of emotional and financial abuse by his wife. The petitioner's statements and those of the other affiants demonstrate that his wife's behavior involved actual and threatened violence, and psychological and sexual abuse constituting extreme cruelty, as that term is defined at 8 C.F.R. § 204.2(c)(1)(vi).

Upon a full review of the entire record, the petitioner has demonstrated, by the preponderance of the evidence, that his wife subjected him to battery and extreme cruelty during the marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

#### *Conclusion*

On appeal, the petitioner has overcome both of the director's grounds for denial. The petitioner has established that he entered into the marriage with his spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act, and that she subjected him to battery or extreme cruelty, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

In these proceedings, the petitioner bears the burden of proof to establish his 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, 375 (AAO 2010). On appeal, the petitioner has met this burden. He has established his eligibility for immigrant classification under section 204(a)(1)(A)(iii) of the Act. The appeal will be sustained and the petition will be approved.

**ORDER:** The appeal is sustained.