



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,

*Ron Rosenberg*  
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 her spouse, a United States citizen, in good faith. On appeal, the petitioner submits 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 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:

(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.

\* \* \*

(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 the Philippines who entered the United States on December 18, 1989, as a B-1nonimmigrant visitor. On [REDACTED] 2009, the petitioner married D-L-<sup>1</sup>, a United States citizen, in Nevada. The petitioner filed the instant Form I-360 self-petition on October 22, 2013. The director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's entry into marriage with her husband 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*. On appeal, the petitioner has overcome the director's ground for denial as follows.

### *Good Faith Entry into the Marriage*

In her declarations, the petitioner recounted in detail how she first met her husband in January 2009 while attending a dinner at the home of a close friend. She described their courtship, shared interests, and how she moved in with him in July 2009. She recounted that he proposed marriage to her in October 2009 and that they wed on [REDACTED], 2009. The petitioner provided probative details about her wedding day, the home she shared with D-L-, and recounted the plans they made together for the future. She credibly explained how the relationship later deteriorated as D-L- became physically, sexually, and emotionally abusive toward her. The petitioner stated that in November 2010, she went to stay with her close friend [REDACTED] because D-L- kicked her out of the home they shared. However, because she still loved him, wanted to save their relationship, and because he promised he had changed and would no longer abuse her, the petitioner moved back in with D-L- in May 2011. She stated that D-L-'s promises turned out to be false and she left again in March 2012. The petitioner then explained the difficult circumstances under which she agreed to return again to the marital home in September 2013.

The petitioner also submitted two declarations from [REDACTED] who explained that she has known the petitioner since they attended college together in the Philippines. Ms. [REDACTED] recounted how they

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

have spent countless hours sharing the most intimate details of their lives with each other. She stated that while the petitioner and D-L- were courting, the petitioner often described their dates, spoke of how well he treated her, and that she believed she had found the man with whom she would spend the rest of her life. Ms. [REDACTED] also described the circumstances under which the petitioner came to live with her, and later returned twice to D-L- as the petitioner still loved him and wanted to believe he had changed. The petitioner also submitted three letters from [REDACTED] ASW, who has counseled the petitioner since December 2010. Ms. [REDACTED] provided insight into the petitioner's marital intent and the dynamics of her relationship with D-L-. In addition, the petitioner submitted her marriage certificate and seven photographs of herself with her husband on their wedding day and on other occasions.

The petitioner credibly explained that as part of D-L-'s pattern of control, he refused to establish any joint accounts with her or add her name to any existing accounts or assets, refused to file joint income tax returns, and even forbade her from listing him as her husband on hospital admissions records when she was suffering from appendicitis. Traditional forms of joint documentation are not required to demonstrate a self-petitioner's entry into the marriage in good faith. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). Rather, a self-petitioner may submit "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). Here, the petitioner submitted letters from a close friend and confidant who credibly attested to her good-faith intent upon marrying her husband and established the basis of her personal knowledge of the relationship. She has also credibly described, in her own personal declarations, her feelings for D-L- and her reasons for marrying him. When viewed in the aggregate, the relevant evidence shows that the petitioner married her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

### *Conclusion*

In these proceedings, 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, 375 (AAO 2010). On appeal, the petitioner has met this burden and established her 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.