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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

[REDACTED]

Date: **APR 18 2013**

Office: VERMONT SERVICE CENTER File: [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:

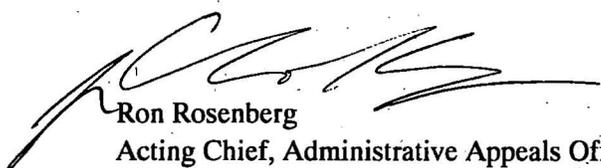
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, (the director) denied the immigrant visa petition and affirmed his decision upon granting the petitioner's motion to reopen. 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 her U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her husband in good faith. On appeal, the petitioner submits a Form I-290B, Notice of Appeal or Motion, and asserts that the director failed to consider her evidence as a whole.

Applicable Law

Section 204(a)(1)(A)(iii) 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). 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).

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 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 Russia who was admitted to the United States on September 14, 2002, as a nonimmigrant visitor. The petitioner married a U.S. citizen in Connecticut on December 13, 2005. She and her husband were divorced on March 30, 2009. The petitioner filed the instant Form I-360 on October 18, 2010. 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 demonstrate the petitioner's eligibility. The director denied the petition and the petitioner timely filed a motion to reopen and reconsider with additional evidence. The Vermont Service Center granted the motion to reopen and affirmed the previous denial. The petitioner then timely filed the current appeal.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The petitioner has failed to overcome the director's ground for denial and establish she married her husband in good faith. A full review of the record fails to demonstrate the petitioner's eligibility for the following reasons.

Good-Faith Entry Into Marriage

The director correctly determined that the evidence submitted below was insufficient to support a finding of the petitioner's good faith entry into the marriage. The petitioner submitted a statement, dated October 13, 2010, in which she recounted that she met her ex-husband in the summer of 2005 on the beach. She stated that her former husband was very nice and helped her through a hard time, and that he proposed in December 2005. The petitioner recalled that she and her ex-husband were married on December 13, 2005. She stated that at first their marriage was really good and that they lived together. The petitioner's statement did not describe their courtship, engagement, wedding, or experiences during the marriage, apart from the abuse, in probative detail.

In response to the RFE, the petitioner submitted additional evidence including account and insurance statements, photographs, letters from her friends, and a second statement. In her statement dated November 11, 2011, the petitioner added that when she met her former husband he offered to practice English with her and they exchanged telephone numbers and began dating. She stated that her ex-husband proposed on her birthday and they were married but did not celebrate because they were saving for the future. The petitioner also recounted that her ex-husband filed immigration papers for her son to come to the United States, but he returned to Russia. The petitioner's updated statement added some detail, but failed to provide sufficient probative detail of her and her former husband's courtship, engagement, wedding, or shared experiences to establish that she married her ex-husband in good faith. The director correctly determined that the letters of the petitioner's friends submitted contained no probative information regarding the petitioner's intentions in marrying her spouse. These letters' authors did not discuss in detail their observations of the petitioner's interactions with and feelings for her ex-husband during their courtship and marriage or otherwise establish their personal knowledge of the relationship.

The director properly reviewed and addressed the deficiencies of the other evidence submitted below including the petitioner's income tax filing, insurance information, and joint account information. There is no evidence that the income taxes were actually filed. The insurance policy was for an automotive plan but the petitioner's ex-husband did not drive. The photographs of the petitioner with her ex-husband on a few unspecified occasions are not accompanied by any explanation of their significance. The account information contains discrepancies regarding the petitioner and her former's husband's shared address. Regardless of these deficiencies, 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(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(c)(2)(vii). In this case, however, the testimonial evidence submitted does not demonstrate the petitioner's entry into her marriage in good faith. While the petitioner's statements briefly describe how the petitioner met her ex-husband, they fail to provide sufficient probative detail regarding their courtship, engagement, wedding, or shared experiences during the marriage, apart from the abuse. Similarly, none of the petitioner's friends discuss in probative detail, for example, any visits to her and her former husband's residence or any observations of the petitioner's interactions with or feelings for her husband during their courtship or marriage. Their letters do not indicate that they had any personal knowledge of the relationship.

On appeal, the petitioner briefly explains the discrepancies noted in the director's two previous decisions, however, the petitioner did not submit any additional statements or other evidence relevant to her entry into the marriage in good faith. Accordingly, the petitioner has failed to demonstrate that she entered into marriage with her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

On appeal, the petitioner has not overcome the director's ground for denial and she is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. In these

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

ORDER: The appeal is dismissed.