



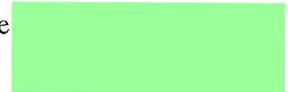
U.S. Citizenship
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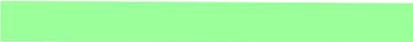


Date: NOV 18 2014 Office: VERMONT SERVICE CENTER

File



IN RE: Self-Petitioner:



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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

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 a United States citizen.

The director denied the petition, determining that the petitioner did not demonstrate that she entered into the marriage with her husband in good faith.

On appeal, the petitioner reasserts her eligibility and submits additional evidence.

Applicable Law

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:

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 explained further 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 standard and guidelines for a self-petition filed under section 204(a)(1)(A)(iii) of the Act are explained further 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.

Pertinent Facts and Procedural History

The petitioner was born in the Philippines and entered the United States as a K-1 nonimmigrant fiancée on February 16, 2012. She married B-N-, a U.S. citizen, on March [REDACTED]. The petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, on February 8, 2013.¹ The director issued a request for evidence (RFE) of, among other things, her good-faith entry into the marriage with B-N-. The petitioner responded to the RFE with additional evidence, which the director found insufficient to establish the petitioner's eligibility on this ground. The director denied the petition and the petitioner filed a timely appeal.

We review these proceedings de novo. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A full review of the record, including the evidence submitted on appeal, sufficiently establishes the petitioner's eligibility.

Good-Faith Entry into Marriage

The petitioner initially submitted a personal statement that contains an account of her good-faith entry into the marriage, including details of her courtship, her husband's marriage proposal, their wedding plans and, her intentions and feelings for B-N- before and after her marriage, and their shared experiences together before and after the marriage. In response to the director's RFE, she provided a statement that focused primarily on the battery and abuse to which B-N- subjected her. She submitted additional letters from friends who attested to the petitioner's good-faith marriage.

On appeal, the petitioner submitted additional statements on the Form I-290B appeal and in a separate

¹ Name withheld to protect the individual's identity.

brief. She again attests to her good-faith entry into the marriage and provides detailed, probative explanations as to the reasons that she did not have the additional documentation proffered as examples in the director's denial. The record contains relevant and credible statements from the petitioner and letters from her friends supporting the petitioner's claims. Accordingly, the preponderance of the evidence submitted below and on appeal demonstrates that the petitioner entered into marriage with her spouse in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

On appeal, the petitioner has overcome the director's ground for denial and she is consequently eligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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 (AAO 2010). Here, the petitioner has met that burden. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained.