



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

Date: **OCT 30 2014**

Office: VERMONT SERVICE CENTER

File: [Redacted]

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:

[Redacted]

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

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 dismissed.

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 married her husband in good faith.

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 Dominican Republic who claims to have entered the United States as a B-2 nonimmigrant visitor on October 16, 1998. The petitioner married J-L-¹, a U.S. citizen, on May [REDACTED]. The petitioner filed the instant Form I-360 on January 14, 2013. The director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's entry into the marriage in good faith. The petitioner timely responded with additional evidence, which the director found insufficient, and the director denied the petition for failure to establish the petitioner's good-faith entry into the marriage with J-L-.

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Good Faith Marriage

In her letter at filing, the petitioner stated that she was in a relationship with J-L- for a year before they decided to marry. She provided no information about how she met J-L-, their courtship, engagement, marriage ceremony, joint residence, and shared experiences apart from the abuse in their marriage. The petitioner provided affidavits from her friends, [REDACTED] Ms. [REDACTED] and Ms. [REDACTED] provided identical affidavits, and indicated that they had been friends with the petitioner prior to her marriage to J-L-. They both stated that the petitioner and J-L- married "for thru [sic] love," but their cursory statement provides no probative information of the petitioner's courtship, engagement, relationship with J-L-, and good-faith entry into the marriage.

In addition to the letters, the record also contains a letter from the Social Security Administration, five envelopes, an identification card, a return receipt, two invoices, and a mail solicitation, which all show a shared mailing address, but are not jointly addressed. The petitioner also submitted a protection order issued against J-L- stating that, among other things, he was ordered to stay away from the petitioner and her home. Finally, the petitioner submitted photographs of herself and J-L- pictured together or with other people on their wedding day.

On appeal, the petitioner provides a new personal statement describing that she was a 53 year old widow with a teenage son when she met J-L-, who was 74 years old. She indicates that she was happy to have J-L- as a companion as she got older and that they dated for about a year, spending

¹ Name withheld to protect the individual's identity.

time with friends and providing companionship to each other. The petitioner indicates that their “outings” as a couple consisted of spending time together and with friends, and going out to eat. She does not, however, provide any specific details about any of these occasions. The petitioner states that her marriage “was real” but not exciting, and that when she decided to marry J-L- she “figured it would be until one of us passed away.” Apart from the abuse, the petitioner makes cursory statements and does not provide further probative details of the first time she met J-L-, her courtship, engagement, decision to marry, marriage ceremony, joint residence, common residential routines, and shared experiences with J-L-.

Additionally, the petitioner also submitted a new affidavit from [REDACTED] who claims that the petitioner and J-L- were “both looking for companionship,” and the petitioner “seemed more happy and more full of life” with J-L-. Ms. [REDACTED] states generally that she spent time with the petitioner and J-L- while they dated, recounting that she and her husband went out to dine a few times with them, and that the petitioner and J-L- “seemed to be in love.” Ms. [REDACTED] mentions that she attended the couple’s courthouse wedding, and often visited the petitioner and J-L-, but her statements are general and provide no detailed, substantive information regarding the petitioner’s courtship, engagement, and good-faith intent.

The petitioner also submitted a new affidavit from [REDACTED] who indicates that the petitioner met J-L, who was visiting Ms. [REDACTED] home at that time in October 2010. She further states that the petitioner and J-L- started to date in January 2011, and that they spent many evenings on double dates at her home. She claims that she attended their wedding, which was simple and “commemorate[d] their love for each other,” but her statements are cursory and provide no detailed, probative information of her knowledge of the petitioner’s relationship with J-L- and good-faith entry into the marriage.

The petitioner also provided other letters. The petitioner’s son discusses only his relationship with the petitioner, and provides no information of the petitioner’s good-faith intent in marrying J-L-. [REDACTED] states that she has known the petitioner since 1995, that the petitioner met J-L- in October 2010 and was happy in her relationship. [REDACTED] indicates that she has known the petitioner for four years and recounts that the petitioner was “excited” about J-L- and in love with him. Ms. [REDACTED] and Ms. [REDACTED] provide no detailed, substantive information establishing the petitioner’s courtship, engagement, relationship with J-L-, and good-faith intent.

The petitioner submits her son’s school transcripts, and two forms from a counseling center regarding appointment policies that the petitioner and J-L- co-signed on behalf of her son as his “parent/guardian.” The petitioner also submitted letters from the Social Security Administration, a mail solicitation, and envelopes, which all show a shared mailing address, but are not jointly addressed to the petitioner and J-L-. However, evidence showing a shared address is not, by itself, sufficient to demonstrate the petitioner’s good-faith intent at the time of her marriage. Section 204(a)(1)(A)(iii) of the Act prescribes five distinct statutory eligibility requirements. The same or similar evidence may be submitted to demonstrate, for example, residence and entry into a good faith marriage, but meeting one eligibility requirement will not necessarily demonstrate the others.

Furthermore, 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). 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." See 8 C.F.R. § 204.2(c)(2)(vii). In this case, although the petitioner has submitted evidence of a shared mailing address and some joint documentation, she has not provided a detailed account of her relationship with J-L. Similarly, the affidavits from her friends lack substantive information of the petitioner's courtship, engagement, and marital relationship. In the absence of a probative account from the petitioner of her intentions in marrying, the relevant evidence in the record fails to demonstrate her good-faith intent. When viewed in the totality, the preponderance of the evidence does not demonstrate that the petitioner entered into marriage with her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

The record does not establish that the petitioner married her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.