



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **SEP 19 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)

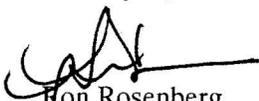
ON BEHALF OF PETITIONER:
[REDACTED]

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 Acting Director, Vermont Service Center (“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 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 the marriage in good faith. On appeal, counsel submits a brief and 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 are further explained in 8 C.F.R. § 204.2(c)(1), which states, in pertinent part, that a spouse may self-petition under these provisions if she establishes:

(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 explained in 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 is a citizen of Nigeria who entered the United States on May 22, 2010 as a B-1 nonimmigrant visitor. She married P-F¹, a U.S. citizen, on November 18, 2010, in Houston, Texas. The petitioner filed the instant Form I-360 self-petition on May 25, 2012. The director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's good-faith entry into the marriage. The petitioner, through counsel, timely responded to the RFE with additional evidence, which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and counsel filed a timely appeal.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A full review of the record fails to establish the petitioner's eligibility. The claims and evidence submitted on appeal do not overcome the director's ground for denial and the appeal will be dismissed.

Entry into the Marriage in Good Faith

The petitioner initially submitted a statement in which she described meeting P-F- during a shopping trip in June 2010. She stated that they became friends and would go to the pool, zoo, church, and movies together. The petitioner also described a date that P-F- planned for her birthday. She stated that their "love grew stronger" and briefly recounted trips to the beach, to exercise, and a vacation to [REDACTED]. The petitioner then described the date in which P-F- proposed to her and their following marriage ceremony. In response to the RFE, the petitioner submitted a second statement in which she explained the absence of documentary evidence such as joint utility bills and bank accounts. She did not, however, provide any further details regarding her good-faith intent.

The record also contains letters from the petitioner's friends but these letters also lacked sufficient detail of the petitioner's good-faith intent. [REDACTED] a family friend, submitted a letter in which he

¹ Name withheld to protect the individual's identity.

briefly stated that he and his wife visited the petitioner and P-F- “a few times and once attended a house party at their marital home.” Apart from details regarding P-F-’s abuse, Mr. [REDACTED] did not further discuss the petitioner’s intent in marrying P-F- or provide any additional details to establish her good-faith marriage. In their letters, [REDACTED] all briefly stated either that they visited the petitioner and P-F- at their home in Richmond, Texas or that the petitioner and P-F- came to their homes. None of the statements provided specific information regarding the couple’s relationship prior to their marriage, the petitioner’s intentions for marrying P-F-, their shared residence, or experiences.

The record also contains a copy of an insurance card, effective from January 11, 2011 until July 11, 2011, showing P-F- as the policy holder and the petitioner as a named driver; a single [REDACTED] bill dated March 2, 2011 in P-F-s name; medical documents indicating the petitioner suffered a miscarriage in March 2011; and four undated photographs documenting two separate occasions. The director noted that the address listed on the petitioner’s medical forms was different from the marital address claimed by the petitioner.

On appeal, counsel resubmits the statements submitted below by the petitioner’s friends and contends that the petitioner’s statements, the statements of her friends, and the evidence of the petitioner’s miscarriage sufficiently establish the petitioner’s good-faith intent. Regarding the address listed on the petitioner’s medical documents, counsel states that director inappropriately relied on this discrepancy, given that the petitioner explained in her statement that “at some point during her marriage and due to abuse, she had to run to [this address]” The petitioner’s explanation for this discrepant address and for the lack of evidence of joint accounts and utilities is credible. 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.” See 8 C.F.R. § 204.2(c)(2)(vii).

A full review of the record fails to establish by a preponderance of the evidence that the petitioner entered into the marriage in good faith as required by section 204(a)(1)(A)(iii)(aa) of the Act. In the statements submitted before the director, the petitioner and her friends did not discuss her intent in marrying P-F- and failed to probatively describe their courtship, wedding ceremony, joint residence or any of their shared experiences, apart from the abuse. On appeal, the petitioner, through counsel, resubmits statements made on her behalf by friends, but no additional statement on her own behalf. Accordingly, the petitioner has failed to demonstrate by a preponderance of the evidence 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 failed to establish that she entered into her marriage in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

It is the petitioner's burden to establish eligibility for the immigration benefit sought. 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 and the appeal will be dismissed.

ORDER: The appeal is dismissed.