

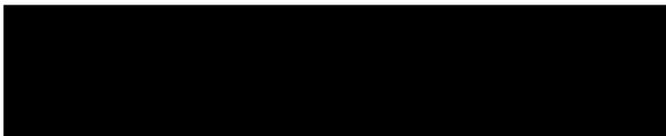
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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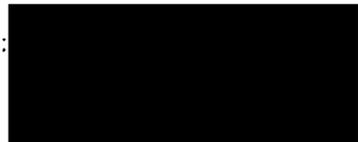
B9

Date:

JUL 12 2011

Office: VERMONT SERVICE CENTER

FILE:



IN RE:

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:

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 law was inappropriately applied by us 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. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion with the \$630 fee. 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,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center 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 petition will remain denied.

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 his United States citizen spouse.

The director denied the petition for failure to establish the requisite good-faith entry into the marriage. On appeal, the petitioner submits a statement and the following: a U.S. Postal Service form listing the petitioner’s wife as the “sender” and her address as: [REDACTED], [REDACTED], and a receipt dated April 11, 2007; a power bill dated March 2009, addressed to the petitioner and his wife; an auto insurance coverage summary for the policy period from February 22 - August 22, 2008, listing the petitioner and his wife; a tax return transcript from the Internal Revenue Service (IRS) for the tax period ending on December 31, 2006, listing the petitioner and his wife as “Married Filing Joint”; and copies of his wife’s social security card, dated July 13, 2007. The petitioner asserts that he married his wife in good faith.

Applicable Law and Regulations

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).

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 explained further at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part, the following:

(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 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, the following:

Evidence for a spousal self-petition –

(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 Trinidad and Tobago who entered the United States as a nonimmigrant visitor in 2000. On December 21, 2005, the petitioner married a U.S. citizen in New Jersey. The petitioner's wife subsequently filed a Form I-130, Petition for Alien Relative, on behalf of the petitioner, which was ultimately denied on September 21, 2007. A second I-130 petition filed by the petitioner's wife was approved on August 19, 2008. The petitioner filed the instant Form I-360 self-petition on April 6, 2009. The director subsequently issued a request for additional evidence (RFE) that the petitioner was subjected to abuse. The director issued another RFE that the petitioner had the requisite joint residence, abuse, and good-faith marriage. The petitioner submitted additional evidence. The director found the petitioner's response to the RFE insufficient and denied the petition for failure to establish the requisite good-faith entry into the marriage.

On appeal, the petitioner asserts, in part, that he married his wife in good faith. The petitioner also asserts that his wife went to the social security office to change her surname to '██████████' and that he is submitting new evidence, including an electric bill, a postal service form, tax transcripts, and an insurance letter, to demonstrate that he and his wife lived together. The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The relevant evidence submitted below and on appeal does not overcome the director's grounds for denial.

Good Faith Entry into Marriage

The petitioner did not submit a personal statement at the time of filing. In his October 27, 2010 affidavit submitted in response to the RFE, the petitioner stated, in part, that: he loved his wife from the time they first met though she was not the cleanest or most disciplined person; he told his parents about his wife, they spoke with her, and he proposed to her; his wife accepted his proposal and they

began planning their lives together; they told each other about their past lives but his wife did not reveal her sordid lifestyle to him; his wife took him to parties with her friends though he did not always party with them; later he was concerned that they would not get anywhere with the little money they had; he proposed to his wife at the Olive Garden restaurant and they were married at the courthouse because they had no money; after their marriage, he taught his wife how to clean and cook and he discovered that she had a quick temper; his wife called his mother to learn how to make his favorite dishes and she surprised him when he returned home from work; his wife moved into the apartment that he shared with a friend; he worked in a small beauty store and made a budget for his wife because she spent too much money on her hair and nails; they moved to another apartment after the landlord asked them to leave due to a confrontation between his wife and his roommate; the new lease at [REDACTED] was under his roommate's name because his wife did not have good credit; his wife could not be added to his account because of her bad record, but he and his wife were both on the utility bill; his wife refused to work and caused him to lose his job because she called and went to his place of work too often; and he still loved his wife but was afraid of her.

In an affidavit dated March 14, 2009, [REDACTED] stated, in part, that he/she knew the petitioner and his wife since 2005, and they seemed like the perfect couple until they began the "green card" process for the petitioner.

The petitioner also submitted the following: joint tax returns for 2005 and 2006, which reflect income contributed only by the petitioner; and a power bill addressed to the petitioner and his wife, dated July 2007, which is subsequent to their alleged joint residence, as reflected on the petition. It is also noted that the record contains a Form I-693, Medical Examination of Aliens Seeking Adjustment of Status, signed by the petitioner on March 15, 2007, on which the petitioner listed his address as: [REDACTED] which conflicts with the information provided by the petitioner on the instant I-360 petition, on which the petitioner indicated that he resided with his wife until April 2007, and the last address at which they lived together was: [REDACTED]

The director determined that the petitioner had submitted insufficient documentation to establish that he married his wife in good faith. The AAO acknowledges the additional evidence on appeal and the petitioner's claim that he married his wife in good faith. Although the petitioner asserts that the U.S. Postal Service form reflects the same address for him and his wife, a review of the form finds that the address listed for the petitioner's wife - [REDACTED] - and the April 11, 2007 receipt date, conflict with the information on the petition, which indicates that the petitioner and his wife ceased living together in April 2007, and the last address at which they resided together as: [REDACTED]. Thus, it is unclear how the U.S. Postal Service form proves that the petitioner and his wife lived together, as asserted by the petitioner. In addition, the power bill listing the petitioner and his wife is dated March 2009, which is two years after the petitioner allegedly ceased living with his wife, according to the information on the instant petition. In like manner, the auto insurance coverage summary listing the petitioner and his wife is for the policy period from February 22 - August 22, 2008, which is also several months after the petitioner allegedly ceased living with his wife. Similarly, the photocopy of the social security card of the petitioner's wife, which reflects her surname as [REDACTED] is dated July 13, 2007, which, again, is after the petitioner allegedly ceased living with his wife. The record contains no explanation for these inconsistencies and/or discrepancies. In view of the foregoing, the

additional evidence submitted by the petitioner on appeal fails to support the petitioner's claim that he entered into the marriage in good faith.

The petitioner is not required to submit preferred primary or secondary evidence. See 8 C.F.R. §§ 103.2(b)(2)(iii), 204.1(f)(1), 204.2(c)(2)(i). In this case, we do not find the petitioner's evidence sufficient to meet his burden of proof. The petitioner provided only a cursory overview of how he met his wife, their courtship, decision to marry, and shared experiences, apart from the alleged abuse, which significantly detracts from the credibility of his claim. The affidavit submitted on his behalf was also general and vague and provided minimal information pertinent to the circumstances of the petitioner's courtship with his wife, their decision to get married, their wedding, and their shared experiences, apart from the alleged abuse. In addition, as discussed herein, the power bills, auto insurance coverage summary, social security card, and tax returns do not establish that the petitioner and his wife established a life together. The majority of the documentation is dated after the petitioner allegedly ceased residing with his wife and is not evidence of a bona fide marriage. The documents, when considered in the aggregate, do not include the necessary and fundamental information to establish that the petitioner entered into the marriage in good faith. While the lack of documentation is not necessarily disqualifying in this matter, as previously mentioned, the petitioner provides little information regarding his initial meeting with his spouse, their courtship, their discussions of marriage, their plans to marry, and their interactions subsequent to the marriage except as they relate to the claims of abuse. Simply stating that he entered into his marriage in good faith is insufficient. The petitioner fails to provide probative testimony that contributes to an understanding of his intent when entering into the marriage. Upon review, the record in this matter does not include sufficient probative evidence establishing that the petitioner entered into marriage with his wife 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 his eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The petitioner has failed to establish the requisite good-faith entry into the marriage. Accordingly, the appeal will be dismissed and the petition will remain denied.

ORDER: The appeal is dismissed. The petition remains denied.