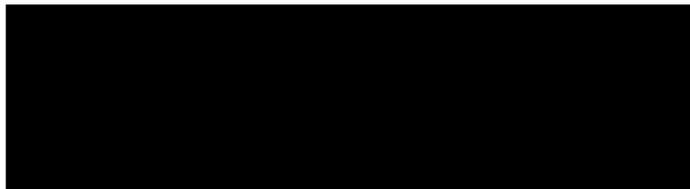


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



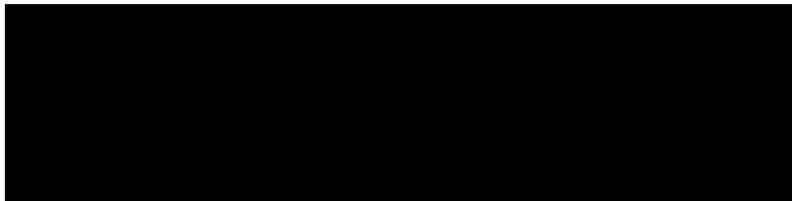
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DATE: JUL 24 2012 Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:

PETITION: Petition for Immigrant Abused Child Pursuant to Section 204(a)(1)(A)(iv) of the
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iv)

ON BEHALF OF PETITIONER:



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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The 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 sustained. The petition will be approved.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(iv) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iv), as an alien child subjected to battery or extreme cruelty by her United States citizen parent.

The director determined that the petitioner had not established that her U.S. citizen mother’s abuse was one central reason for her failure to file her petition before her twenty-first birthday. Consequently, the director denied the petition for failure to demonstrate a qualifying relationship with a citizen parent and corresponding eligibility for immediate relative classification. On appeal, counsel submits a brief and additional evidence.

Applicable Law

Section 204(a)(1)(A)(iv) of the Act provides, in pertinent part:

An alien who is the child of a citizen of the United States, . . . and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who resides, or has resided in the past, with the citizen parent may file a petition with the [Secretary of Homeland Security] under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the [Secretary of Homeland Security] that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien’s citizen parent. . . .

The term “child” is defined as, in pertinent part, “an unmarried person under twenty-one years of age who is . . . a child born in wedlock [or] . . . a child born out of wedlock, by, through whom, or on whose behalf a status . . . is sought by virtue of the relationship of the child to its natural mother” Section 101(b)(1)(A), (C) of the Act, 8 U.S.C. § 1101(b)(1)(A), (C).

Section 204(a)(1)(D)(v) of the Act further provides:

For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) . . . as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age and the individual shows that the abuse was at least one central reason for the filing delay. . . .

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].

Procedural History

The petitioner is a native and citizen of the Dominican Republic who was born on January 28, 1986. She states that she entered the United States when she was almost four years old to reside with her biological mother. The petitioner's mother became a naturalized U.S. citizen on June 30, 1996. Although the petitioner's mother immigrated her older brother, who naturalized on March 29, 2006, the petitioner's mother never filed an immigrant visa petition on her behalf. The petitioner turned 21 on January 28, 2007. She filed the instant Form I-360 on August 17, 2010, when she was 24 years old. The director subsequently issued a request for evidence (RFE) of a connection between her mother's abuse and the petitioner's late filing to which prior counsel timely responded. The director found the response insufficient to establish the petitioner's eligibility and denied the petition on August 23, 2011. Upon granting prior counsel's motion to reopen and reconsider, the director affirmed his denial of the petition in a decision dated February 21, 2012. Counsel timely appealed.

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, as supplemented on appeal, demonstrates that the petitioner has overcome the grounds for denial.

Factual Background

The record establishes that the petitioner's mother subjected her to battery and extreme cruelty throughout her childhood. The petitioner and her brothers credibly recounted several incidents of physical abuse including when the petitioner's mother burned her with a hot iron and hot oil and stabbed her with a knife. The petitioner's mother did not care for these wounds herself or seek medical treatment for her child and the petitioner remains physically scarred by these injuries. The record also documents the extensive extreme cruelty inflicted upon the petitioner by her mother throughout her childhood and young adulthood. The petitioner was socially isolated from her peers as a young child; was constantly punished, demeaned and insulted; and, from the age of nine, was forced to cook, clean and care for her mother and brothers. When the petitioner was 15, her mother began demanding that the petitioner pay for groceries and other household expenses and forced her to engage in prostitution to earn money, but did not teach her how to protect herself from pregnancy and disease. The petitioner ceased such activity when her mother threw her out of her home and she briefly resided with a friend. When the petitioner was overcome by depression at the age of 17 and contemplated ending her life, her mother urged her to commit suicide. The affidavits of the petitioner, her brothers, her friend and her therapist further demonstrate that the petitioner's mother controlled her through repeated threats that if she revealed the abuse, her younger brother would be taken into foster care and she and her older brother would be deported.

In 2006, when the petitioner was 20 years old, she became pregnant during an abusive relationship with an older man. After the petitioner gave birth to her son, she resided with her mother because she had no authorization to work legally and had no other place to stay. The petitioner credibly

described how her life for the next two years was preoccupied with mere survival: caring for her infant son and avoiding her mother's wrath so they would not become homeless. Although the petitioner suffered from depression during and after her pregnancy, her mother told her not to seek certain prenatal care and mental health treatment, facts documented in the petitioner's medical records. In 2009, the petitioner's mother forced her and her son out of her home. The record documents the petitioner's subsequent stay in a homeless shelter and her mother's report to a homeless services agency of her refusal to keep the petitioner and her son in her apartment and her failure to disclose the abuse, which prevented the petitioner from obtaining additional housing aid.

On two occasions before she turned 21, the petitioner's friends helped her meet with two attorneys who did not inform her of the self-petitioning provisions and did not assist her in gaining lawful permanent residency. The petitioner, her brothers and her friend credibly recounted how her mother repeatedly refused to file an immigrant visa petition on her behalf, denied that she could do anything to help the petitioner obtain lawful permanent residency, and discouraged her from seeking legal aid. After the petitioner's mother threw her and her son out of her home in 2009, the petitioner's older brother learned of another attorney through an acquaintance who worked in the immigration field. When that attorney compassionately inquired about the petitioner's relationship with her mother, the petitioner and her brother finally felt safe disclosing the abuse and the attorney referred the petitioner to the non-profit organization which assisted her in filing the instant petition. During this time, the petitioner's life began to stabilize and she found employment, was able to move into an apartment with her younger brother and obtained counseling for survivors of domestic violence.

Analysis

The director concluded that because the petitioner had sought other legal counsel before she turned 21, she had not established that her mother's abuse had prevented her from timely filing the instant petition and she consequently failed to demonstrate the requisite nexus between the abuse and her untimely filing. The director's decision shall be withdrawn. The record demonstrates that the petitioner endured her mother's extreme cruelty throughout her childhood and early adulthood and that a key component of such abuse was her mother's refusal to immigrate her and her mother's use of her resultant lack of immigrant status as a means to control the petitioner through repeated threats of deportation. In the psychological evaluation of the petitioner submitted on appeal, ██████████ diagnosed the petitioner with depression and complex Post Traumatic Stress Disorder (PTSD) stemming from her mother's abuse. ██████████ explained that the enduring impact of the child abuse and the resultant depression and PTSD posed significant obstacles in the petitioner's ability to timely file the instant petition because the petitioner was unable to disclose her mother's abuse to any authority figure until she was sufficiently removed from her mother's psychological and physical control and was asked about the abuse by a skilled professional.

When considered in the aggregate, the relevant evidence submitted below and on appeal establishes that her mother's abuse was at least one central reason for the petitioner's failure to file before her twenty-first birthday. As a child and young adult, the petitioner was dependent upon and controlled by her mother who was the source of both her abuse and her lack of immigrant status. The petitioner credibly feared the consequences of disclosing her mother's battery and

extreme cruelty and she was unable to adequately address the abuse and its legal ramifications until she was sufficiently outside her mother's abusive control.

To demonstrate eligibility for the late-filing provision at section 204(a)(1)(D)(v) of the Act, a self-petitioner need not show that the abuse was the only cause for the delay. Rather, to establish that a parent's abuse was "at least one central reason for the filing delay," the self-petitioner must demonstrate, by a preponderance of the relevant, credible evidence, a nexus between the abuse and the filing delay that is more than incidental or tangential. The petitioner has met this standard of proof on appeal. Accordingly, the director's determination to the contrary is withdrawn.

Conclusion

As of the day before her twenty-first birthday, the petitioner was eligible for immigrant classification under section 204(a)(1)(A)(iv) of the Act as a child abused by her U.S. citizen mother. The instant petition was filed before the petitioner's twenty-fifth birthday and she has shown that her mother's abuse was at least one central reason for her filing delay. Accordingly, the petitioner remains eligible for immigrant classification under section 204(a)(1)(A)(iv) of the Act pursuant to section 204(a)(1)(D)(v) of the Act and the appeal will be sustained.

ORDER: The appeal is sustained. The petition is approved.