



U.S. Citizenship
and Immigration
Services

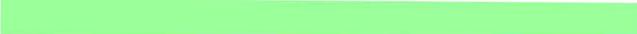
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Date: **MAY 13 2013**

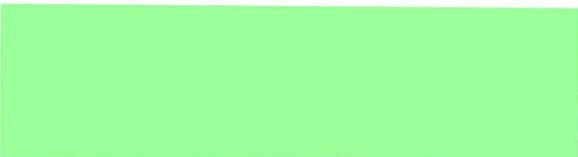
Office: VERMONT SERVICE CENTER

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:



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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630 or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting 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 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 United States citizen spouse.

The director denied the petition for failure to establish that she entered into marriage with her husband, a U.S. citizen, in good faith.

On appeal, the petitioner, through counsel, submits a brief.

Relevant 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 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.

Pertinent Facts and Procedural History

The petitioner is a citizen of the Philippines who entered the United States on October 16, 2005 as a B-2 visitor. The petitioner married A-S-¹, a U.S. citizen, in Los Angeles, California on December 20, 2009. The petitioner filed the instant Form I-360 on February 23, 2011. The director subsequently issued a Request for Evidence (RFE) of, *inter alia*, her good-faith entry into marriage with A-S-. The petitioner, through counsel, timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner timely appealed.

On appeal, counsel asserts that the director failed to consider all the evidence submitted.

The AAO reviews these proceedings *de novo*. 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 petitioner's claims on appeal do not overcome the director's ground for denial and the appeal will be dismissed for the following reasons.

Entry into the Marriage in Good Faith

The director correctly determined that the petitioner failed to establish that she married A-S- in good faith. The record contains the petitioner's declaration, statements from her friends [REDACTED] a joint checking account statement, a life insurance policy letter, and photographs of the petitioner and A-S-. The joint bank statement showed minimal activity and was dated at the time that the petitioner separated from A-S-. The life insurance policy issued to the petitioner and designating A-S- as the beneficiary was also dated close to the time that the petitioner separated from A-S-. These documents therefore these do not establish that the petitioner entered into marriage with A-S- in good faith. The photographs showed that the petitioner and A-S- were pictured together on their wedding day and two other unidentified occasions but alone, they also did not establish the petitioner's marital intentions.

¹ Name withheld to protect the individual's identity.

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). In this case, the statements of the petitioner and her friends do not provide sufficient probative information to establish her good-faith intent upon marrying A-S-. In her first declaration, the petitioner stated that she was introduced to A-S- by a friend in 2008 and got married to him on December 20, 2009. The petitioner did not describe in further detail their courtship, wedding ceremony, shared residence and experiences apart from the abuse. In her second declaration submitted in response to the RFE, the petitioner repeated her earlier statements and added that she met A-S- sometime in May of 2009. She stated that she initially did not want to go out with A-S- but that he convinced her to meet him for coffee. She stated that she found him to be kind and fun and eager to learn about her culture. After some time, she finalized her divorce from her first husband and married A-S-. The petitioner stated that they opened joint bank accounts and she purchased a life insurance policy. She did not describe in further detail their courtship, wedding ceremony, shared residence and experiences apart from the abuse.

stated that she knew the petitioner and A-S- to be a couple and that the two moved into her apartment. She did not further describe their relationship apart from the abuse. stated that she witnessed the marriage of the petitioner and A-S- and that the petitioner confided in her about married life and that initially things went well. stated that she knew the petitioner and A-S- as a married couple and saw them together when she visited them at their home. The petitioner's friends did not describe any visit or social occasion in probative detail or otherwise provide detailed information establishing their personal knowledge of the relationship.

On appeal, counsel asserts that the director failed to consider all the relevant and credible evidence and that the petitioner's testimony and the testimony of her friends sufficiently show that the petitioner married A-S- in good faith. We find no error in the director's assessment of the relevant documents. Contrary to counsel's claims, the petitioner's declarations did not provide sufficient detail to adequately address her good-faith intent upon marrying A-S-. The letters from her friends also failed to provide relevant, substantive information and did not show that the authors had any personal knowledge of the relationship. Additional evidence was not submitted on appeal. When viewed in the totality, the preponderance of the relevant 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

On appeal, the petitioner has failed to establish that she entered into her marriage with A-S- in good faith. She is consequently ineligible 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 Chawathe*, 25 I&N

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Page 5

Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.