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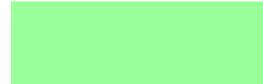
U.S. Citizenship
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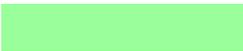
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Office: VERMONT SERVICE CENTER File:



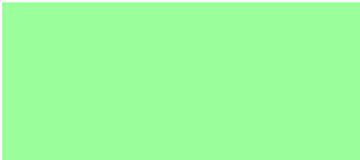
IN RE:

Self-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 (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 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 a U.S. citizen.

The director denied the petition for failure to establish that the petitioner entered into marriage with her former husband in good faith. On appeal, counsel submits a brief and additional evidence.

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 Moldova who entered the United States on June 1, 2010 as an exchange visitor. She married T-L-, a U.S. citizen, on September 17, 2010 in Florida.¹ Her marriage to T-L- was terminated in a divorce on September 9, 2013.

The petitioner filed the instant Form I-360 on May 13, 2011. 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 responded with additional evidence which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and counsel timely appealed.

We conduct 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, including the evidence submitted on appeal, fails to establish the petitioner's eligibility. Counsel's claims and the evidence submitted 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 relevant evidence submitted below and on appeal fails to demonstrate the petitioner's entry into her marriage in good faith. In the petitioner's initial affidavit, she recounted that she met T-L- shortly after her arrival in the United States through her two friends who were sharing an apartment with him. She stated that they dated for one month and then moved into a house together. She recounted that T-L- proposed to her on September 3, 2010 and they wed on September 17, 2010 at a courthouse. The petitioner did not probatively describe her courtship with T-L-, their wedding ceremony, joint residence or any of their shared experiences, apart from the abuse.

The petitioner submitted nine undated photographs of herself and T-L- taken at unidentified locations. In response to the RFE, the petitioner submitted excerpts from T-L-'s social media account in which T-L- announced the couple's marriage and divorce and a few additional undated photographs of the couple taken at unspecified locations.² The director correctly determined that the record failed to establish by a preponderance of the evidence the petitioner's good faith intent in entering the marriage.

¹ Name withheld to protect the individual's identity.

² In response to the RFE, counsel asserted that he inadvertently threw away the petitioner's cellular phone, which the petitioner informed him contained photographs of the couple and the couple's correspondence via text

On appeal, counsel contends that the police report in the record shows that the petitioner married her spouse in good faith. The police report, however, only demonstrates abuse in the marriage. Counsel also submits on appeal, the petitioner's divorce decree and a psychological evaluation from a social worker, [REDACTED] Ms. [REDACTED] diagnosed the petitioner with post-traumatic stress disorder and depression resulting from abuse in the marriage. Section 204(a)(1)(A)(iii) of the Act prescribes five distinct statutory eligibility requirements. Although the same or similar evidence may be submitted to demonstrate, for example, joint residence and good-faith entry into the marriage, meeting one eligibility requirement will not necessarily demonstrate the other.

On appeal, counsel asserts that because of the short duration of the marriage, the petitioner found it difficult to obtain documentary evidence of her good-faith entry into marriage. Given the short duration of the petitioner's courtship and her marriage to T-L- before they separated in October 2010, petitioner's lack of documentary evidence is understandable. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i) (Self-petitioners are encouraged, but not required to submit primary evidence and any relevant, credible evidence will be considered). However, in this case, the petitioner has not submitted sufficient credible evidence to meet her burden of proof. In her statement, the petitioner did not probatively describe her courtship with T-L-, their wedding ceremony, joint residence or any of their shared experiences, apart from the abuse. On appeal, the petitioner submits copies of additional photographs of herself and T-L- with a brief narrative describing each picture. The photographs show that the couple spent time together, but her statements do not contain detailed information of their courtship and marriage. Accordingly, the petitioner has not demonstrated 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 the marriage in good faith. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

In visa petition proceedings, 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). Here, that burden has not been met.

ORDER: The appeal is dismissed

messages. However, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).