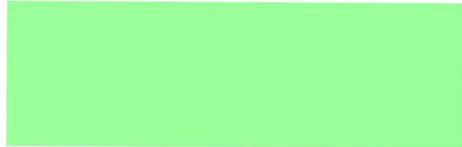


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U.S. Citizenship
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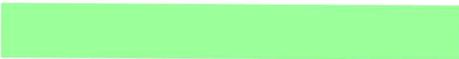


Date: JUL 03 2014

Office: VERMONT SERVICE CENTER File:

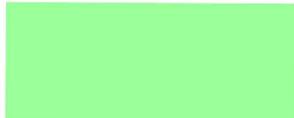


IN RE: Self-Petitioner:



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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
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 sustained.

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 on the basis of her determination that the petitioner failed to establish that she entered into marriage with her husband in good faith.

On appeal, the petitioner submits a brief and additional evidence.

Applicable Law

Section 204(a)(1)(A)(iii) of the Act provides, in pertinent part, 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 filed under section 204(a)(1)(B)(ii) 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 Mexico who entered the United States in 2000, without admission, inspection, or parole. On April 18, 2011, the petitioner married a U.S. citizen¹ in Washington. The petitioner filed the instant Form I-360 on May 29, 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 timely responded with additional evidence which the director found insufficient to establish the petitioner's eligibility and denied the petition accordingly.

The petitioner filed a timely appeal. On appeal, the petitioner submits a police report, a hospital admission form, a summary of a judgment against her and her husband, and a household information form.

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 establishes the petitioner's eligibility for the following reasons.

Entry into the Marriage in Good Faith

The relevant evidence submitted below and on appeal demonstrates the petitioner's entry into her marriage in good faith. In an affidavit dated May 16, 2012, the petitioner stated that she met her husband at a park when he offered to fix her car. She reported that she and her children went to dinner with him after the second time they ran into him in the park. The petitioner stated that her husband bought things for her and her children and she told him about her experiences with her ex-husband. She recalled that she and her husband went on other dates. In 2010, the petitioner's husband moved in with her and her children and they were married on April 8, 2011, as soon as her divorce from her first husband was final. The petitioner indicated that she married her husband because he was kind to her and accepted that she had children of her own. She noted that she cared for her husband a lot and loved

¹ The petitioner's husband naturalized on May 12, 2012.

him. The petitioner stated that she would go with her husband to his work. The petitioner indicated that she did not know about her husband's immigration status until after they were married. In her affidavit submitted in response to the RFE, the petitioner stated that she entered into her marriage with her husband in good faith, that he was nice to her in the beginning, and that she was excited about having companionship. The petitioner indicated that she and her husband were married in a courthouse with a few family members present and went out to eat at a Chinese buffet after the wedding. She explained that because they did not have money and she worked long hours, she and her husband did not have a very exciting dating life, but that they went grocery shopping and to the Laundromat together, and that they would drive to other towns to go to restaurants. She also recalled that her husband would sometimes bring her food while she was at work and they would have lunch together. The petitioner's statement provides a detailed and credible account of her good faith entry into the marriage.

The petitioner also submitted an affidavit from her son and two affidavits from friends that stated that the petitioner was married to her husband. The petitioner's son indicated that the petitioner cooked meals for her husband and that the petitioner and her husband went out together to the Laundromat, watched television together, and went out to eat. He recalled one instance in which he also went out with them to eat. The petitioner also submitted photographs of herself and her husband at their wedding and on three other unspecified occasions, as well as a letter from her husband to her.

On appeal, the petitioner submits additional evidence to show she entered into her marriage in good faith, such as a patient information sheet in which she lists her husband as her emergency contact, and a judgment summary in which she and her husband consented to the entry of a joint judgment against them as husband and wife. The petitioner has credibly explained why she does not have more traditional forms of proof of good faith marriage, and when viewed in its totality the evidence submitted on appeal and below establishes, by a preponderance of the evidence, the petitioner's good faith entry into her marriage, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act. Consequently, the petitioner is eligible 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 been met.

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