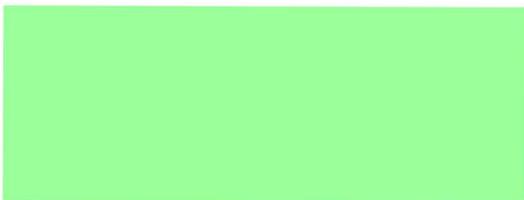


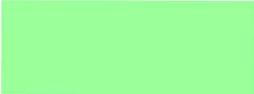


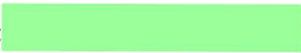
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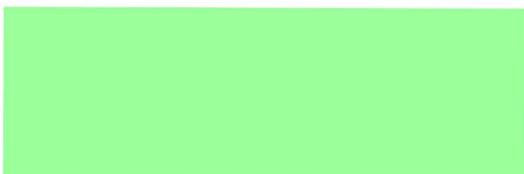
Date: **JUL 29 2014**

Office: VERMONT SERVICE CENTER File: 

IN RE: Self- Petitioner: 

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

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 Vermont Service Center Acting 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 petitioner seeks immigrant classification pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii), as an alien battered or subjected to extreme cruelty by a lawful permanent resident spouse.

The director denied the petition for failure to establish that the petitioner had a qualifying relationship with her lawful permanent resident spouse and was eligible for immigrant classification based on that relationship because her spouse died before her petition was filed.

Applicable Law

Section 204(a)(1)(B)(ii)(I) of the Act provides that an alien who is the spouse of a lawful permanent resident of the United States may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the permanent resident 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 for classification under section 203(a)(2)(A) of the Act as the spouse of a lawful permanent resident, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(B)(ii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(B)(ii)(II).

Under section 204(a)(1)(B)(ii)(II)(aa)(CC) of the Act, aliens who, within the past two years, were bona fide spouses of lawful permanent residents of the United States remain eligible to self-petition under these provisions if: their spouses lost status within the past 2 years due to an incident of domestic violence; or there was a connection between the termination of the marriages and the lawful permanent resident spouses’ battery or extreme cruelty.

Facts and Procedural History

The petitioner in this case is a citizen of Trinidad who claims to have entered the United States as a visitor on June 8, 2002. She married V-R-, a lawful permanent resident of the United States, on March 22, 2007. The petitioner’s spouse passed away on September 11, 2011. The petitioner filed the instant Form I-360 on November 18, 2011. The director denied the petition for failure to establish the requisite qualifying relationship with her husband and her corresponding eligibility for immigrant classification based on that relationship. On appeal, counsel asserts that all self-petitioners remain eligible to file for two years after their divorce from, or the death of their abusive spouses.

Analysis

The petitioner’s spouse died on September 11, 2011. At the time of his death, the petitioner’s spouse was a lawful permanent resident of the United States. Under section 204(a)(1)(A)(iii)(II)(aa)(CC)(aaa) of the Act, an abused spouse of a U.S. citizen who files within two years of the abusive spouse’s death remains eligible for immigrant classification. However, there is no similar provision for an abused

spouse widowed by a lawful permanent resident of the United States. Under section 204(a)(1)(B)(ii)(II)(aa)(CC) of the Act, an abused spouse who is no longer married to a lawful permanent resident of the United States remains eligible to self-petition only if, during the past two years: the abusive spouse lost status due to an incident of domestic violence; or there was a connection between the abuse and the legal termination of the marriage. In this case, the petitioner does not meet either exception. Consequently, the petitioner did not have a qualifying relationship with her deceased husband at the time of filing, and was ineligible for preference immigrant classification based on that relationship, as required by subsections 204(a)(1)(B)(ii)(II)(aa) and (cc) of the Act.

Conclusion

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 Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.