



U.S. Citizenship
and Immigration
Services

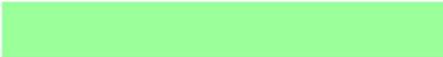
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Date: **JUN 02 2014** Office: VERMONT SERVICE CENTER

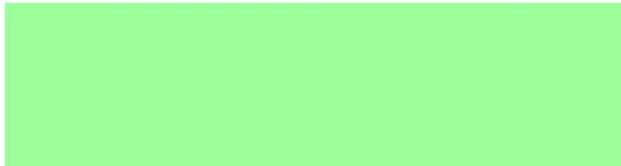
FILE: 

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:

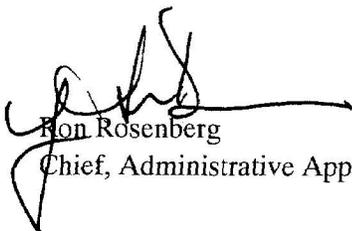


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (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 husband in good faith.

On appeal, counsel submits a statement 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:

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.

Pertinent Facts and Procedural History

The petitioner is a citizen of Cameroon who was admitted to the United States on July 25, 2006 as a nonimmigrant visitor. The petitioner married her husband on December 11, 2006 in Oklahoma City, Oklahoma. The petitioner filed the instant Form I-360 on February 27, 2012. The director subsequently issued two Requests for Evidence (RFEs). The second RFE was for the petitioner's good-faith entry into the marriage. The petitioner responded to the RFE with additional evidence. The director found the additional evidence insufficient to establish eligibility and denied the petition. The petitioner timely appealed.

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, 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 grounds 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 her affidavit, the petitioner stated that she met her husband at a party during her December 2004 visit to the United States. She stated that they kept in touch over the telephone after she departed the United States. The petitioner briefly recounted that she and her husband dated for several months after she returned to the United States in July 2006. She stated that they wed on December 11, 2006. The remainder of her statement focuses on the abuse in the marriage. She failed to further probatively describe her two-year courtship with her husband, their wedding ceremony, joint residence, or any of their shared experiences, apart from the abuse.

The petitioner submitted statements from her friends, [REDACTED] and [REDACTED], her sister, [REDACTED] and her mother-in-law, [REDACTED]. [REDACTED] primarily focused on the abuse and did not discuss her knowledge of the petitioner's good-faith entry into the marriage. [REDACTED] and [REDACTED] all attested to knowing the petitioner and her husband as a married couple and having visited the couple at their residence.

However, they do not describe any particular visit or social occasion with the couple in detail or otherwise provide detailed information establishing their personal knowledge of the relationship.

The petitioner submitted the following documentary evidence: a letter from the petitioner's life insurance agent and corresponding proof of policy; a joint tax return for 2006 and Internal Revenue Service (IRS) transcripts showing joint tax returns filed for 2006 and 2008; joint residential leases for an apartment; a residence verification letter and a debt collection notice for the apartment building; joint bank account statements; joint telephone bills; and undated photographs of the couple. Although the petitioner included her husband as the beneficiary of her life insurance policy, the policy was issued four months after the petitioner stated that she separated from her husband. The joint bank account statements were also all issued after the couple's separation. While the remaining documents are of some probative value, they do not establish by a preponderance of the evidence the petitioner's good-faith entry into the marriage.

In denying the petition, the director determined that the petitioner failed to provide evidence of commingling of finances and the third-party letters failed to provide substantive details of the courtship and marriage.¹ The director also stated that a site visit by U.S. Citizenship and Immigration Services (USCIS) officers revealed that the petitioner's husband never resided at her last claimed joint residence. On appeal, counsel asserts that the petitioner submitted sufficient documentary evidence to establish her good-faith entry into the marriage, including third-party statements, leases, bank account statements, telephone bills and IRS tax transcripts. Counsel states that the petitioner has provided an affidavit from her former landlord as an explanation of the outcome of the USCIS site visit. The petitioner's former landlord, [REDACTED], stated in her letter that she rented a room in her home to the petitioner and her husband in September 2008. She recounted that she asked the petitioner's husband to leave her home in January 2009 after learning about his criminal history. Ms. [REDACTED] stated that she explained that the couple jointly resided together when a USCIS officer contacted her after the site visit.

A full review of the relevant evidence submitted below and on appeal fails to establish the petitioner's eligibility. As discussed, the relevant documents show that the couple filed tax returns, were photographed together, had a telephone account and at some point resided together. However, the petitioner has not described in probative detail her two-year courtship with her husband, their wedding ceremony, joint residence or any of their shared experiences, apart from the abuse. [REDACTED], [REDACTED] and [REDACTED] all claim that they interacted with the petitioner and her husband, but they do not describe any social occasion or visits to the couple's residence in any detail. [REDACTED] similarly does not describe any interactions with the petitioner and her husband when the couple resided in her home. Accordingly, the petitioner has failed to demonstrate 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.

¹ 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). A self-petitioner may instead 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." 8 C.F.R. § 204.2(c)(2)(vii).

(b)(6)

NON-PRECEDENT DECISION

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Conclusion

On appeal, the petitioner has failed to establish her good-faith entry into the marriage. 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.