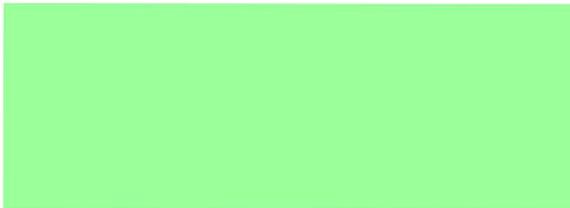


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

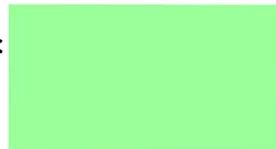


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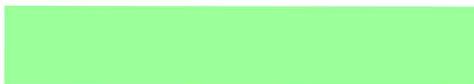
Office: VERMONT SERVICE CENTER

FILE:



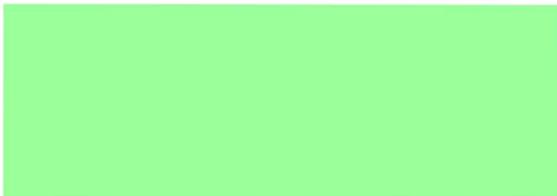
IN RE:

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 her U.S. citizen spouse.

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 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:

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 Poland who was admitted to the United States on May 31, 2006 as a B-2 visitor. She married a U.S. citizen on October 20, 2006 in [REDACTED] Pennsylvania. The petitioner filed the instant Form I-360 on May 7, 2013. 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.

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. Counsel's claims 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 fails to demonstrate the petitioner's entry into her marriage in good faith. In her affidavit, the petitioner stated that she met her husband in August 2006 when she visited her father in Pennsylvania. She briefly recounted that she saw her husband during the weekends and he proposed to her before she was scheduled to return to Poland. The petitioner stated that she and her husband had a good relationship immediately after their October 20, 2006 wedding. The remainder of her statement focuses on the abuse in the marriage. The director correctly concluded that the descriptions of the petitioner's relationship with her husband prior to and during the marriage are general statements with few specific details.

The petitioner submitted a letter from her friend, [REDACTED] who stated that she knew the petitioner and her husband as a married couple. Ms. [REDACTED] briefly recounted that she and her husband spent time with the couple at their house, during the holidays and on "dinner dates." However, she did not describe any particular visit or social occasion with the couple. Nor did she provide detailed information establishing her personal knowledge of the couple's relationship. In response to the RFE, the petitioner submitted a letter from her father, [REDACTED] who stated that after the petitioner's

marriage the petitioner moved to Pennsylvania to live with her husband and the couple later resided with him for a few months in 2008. His statement does not describe his interactions with the couple, or provide any details to establish his knowledge of the relationship.

The petitioner also submitted a U.S. Department of Housing and Urban Development (HUD) Form HUD-50059 Landlord Record, reflecting that she and her husband were named as tenants at an apartment building, and she provided a letter from the property manager of the building, [REDACTED] Ms. [REDACTED] briefly stated that she knows the petitioner and her husband as a couple, but she did not describe any interactions with the couple during their residence at the apartment building.

The petitioner submitted the following documentary evidence: a joint tax return and corresponding Internal Revenue Service (IRS) account transcript for 2007; joint telephone bills; joint bank statements; and six undated photographs of the couple taken at unidentified locations. The director correctly determined that while these documents reflect the petitioner's shared residence with her husband and some joint finances, they do not establish by a preponderance of the evidence the petitioner's good-faith entry into the marriage.

On appeal, counsel asserts that the director failed to explain why the petitioner's documentary evidence was insufficient to establish the petitioner's good faith marriage. Counsel further asserts that the petitioner's statement provided a detailed account of her relationship with her husband. A full review of the record shows no error in the director's decision. As discussed, the relevant documents show that the couple filed a joint tax return, were photographed together, had a telephone account and bank account, and at some point resided together. However, the petitioner has not described in probative detail how she first met her husband, their courtship, wedding ceremony, joint residence or any of their shared experiences, apart from the abuse. The petitioner's friend, [REDACTED] claimed that she interacted with the petitioner and her husband, but she does not describe any social occasion or visits to the couple's residence in any detail. The petitioner's father, [REDACTED] similarly does not describe any interactions with the petitioner and her husband when the couple resided in his 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.

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.