



U.S. Citizenship
and Immigration
Services

(b)(6)

Date:

OCT 16 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. 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 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 summarily dismissed.

The petitioner seeks immigrant classification under 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 United States citizen. The director denied the petition for failure to establish that the petitioner entered into the marriage with his spouse in good faith and also pursuant to section 204(g) of the Act because the petitioner married his spouse while he was in removal proceedings and did not meet the requirements for a bona fide marriage exemption under section 245(e)(3) of the Act, 8 U.S.C. § 1255(e)(3).

The director provided specific instructions detailing, as she had done previously in the Notice of Intent to Deny (NOID), that the petitioner must request a bona fide marriage exemption in writing and that the request must contain: (1) the reason for seeking the exemption; and (2) clear and convincing evidence that the marriage was entered into in good faith and not for the purpose of procuring his entry as an immigrant. The director further explained that while the approval of the Form I-130, Petition for Alien Relative, filed by the petitioner's wife on his behalf established their marriage, that decision did not demonstrate the petitioner's eligibility for immigrant classification under section 204(a)(1)(A)(iii) of the Act in these separate proceedings.

On appeal, the petitioner, through counsel briefly restates the petitioner's assertion that the approval of his Form I-130 demonstrates that his marriage was bona fide at its inception. Counsel does not request a bona fide marriage exemption under section 245(e)(3) of the Act on appeal, and asserts rather that the petitioner "is unable to provide a bona fide marriage waiver exemption at this time."

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v). Counsel has not identified any specific, erroneous conclusion of law or statement of fact in the director's decision and the appeal must be summarily dismissed.

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 summarily dismissed.