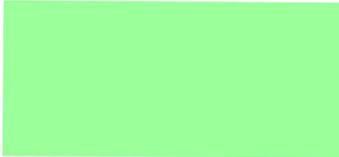


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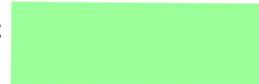


U.S. Citizenship
and Immigration
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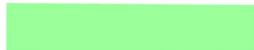


Date: JAN 21 2015 Office: VERMONT SERVICE CENTER

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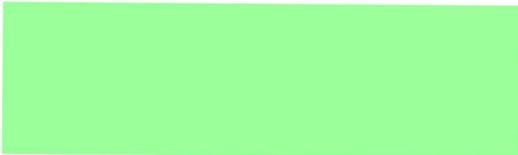


IN RE: Self-Petitioner:



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 Acting Director of the Vermont Service Center (the director) denied the immigrant visa petition (Form I-360) 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 was subjected to battery or extreme cruelty by her husband during their marriage. On appeal, the petitioner submits a statement.

Applicable Law

Section 204(a)(1)(A)(iii)(I) 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).

An individual who has divorced an abusive United States citizen may still self-petition under this provision of the Act if he or she demonstrates "a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse." Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(aa)(CC)(ccc).

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:

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase "was battered by or was the subject of extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under

certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner or the self-petitioner's child, and must have taken place during the self-petitioner's marriage to the abuser.

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.

* * *

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or have taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other forms of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuses may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

Pertinent Facts and Procedural History

The petitioner, a citizen of Morocco, was admitted into the United States as a Q1 nonimmigrant visitor on December 12, 2006. She married L-C-¹, a United States citizen, on October [REDACTED] in [REDACTED] Florida, and she obtained a divorce from L-C- in Florida on May [REDACTED]. The petitioner filed the instant Form I-360 on April 10, 2012. The director subsequently issued a Request for Evidence (RFE) of the requisite battery or extreme cruelty to which the petitioner timely responded with additional evidence. The director found that the evidence in the record was insufficient to establish that the petitioner was battered or subjected to extreme cruelty by her U.S. citizen spouse during their marriage, and the petition was denied on March 17, 2014. The petitioner timely appealed,

¹ Name withheld to protect the individual's identity.

asserting that the director failed to look at the totality of the evidence and failed to apply the preponderance of the evidence standard in her case.

We conduct *de novo* appellate review. Upon review, the petitioner has failed to overcome the grounds for denial and the appeal will be dismissed for the following reasons.

Battery or Extreme Cruelty

The evidence submitted below and on appeal fails to demonstrate that the petitioner was subjected to battery or extreme cruelty during her marriage. The petitioner asserts in statements dated June 18, 2010,² June 15, 2011, and submitted on appeal that things went well in her marriage for about a year, but that her relationship with L-C- then began to change. The petitioner asserts that she came home once in [REDACTED] and found L-C- in their bedroom with another woman, and that he pushed her when they argued about this. She states that she also learned in late August [REDACTED] that L-C- had been arrested for drug use and was on probation. The petitioner indicates that by [REDACTED] L-C- was not working, was lying to her, and often got drunk or smoked marijuana at home with his friends. She indicates further that she and L-C- argued, that L-C- took money from their joint bank account, she felt worthless and abandoned, and that she was constantly crying and often left their apartment to stay with friends. The petitioner states that L-C- threatened to have her deported when she did not give him money, and that he constantly threatened her immigration status. She also states that on one occasion L-C- sold their television in order to get money, and that when they argued about it he pushed her and she fell to the floor. On another occasion, the petitioner claims that L-C- pushed her to the floor and yelled at her after they argued about him not having a job. The petitioner also recounts an incident in August [REDACTED] when L-C- failed to pay rent with money that she gave him, they argued about it, and L-C- pushed her to the wall and threatened to hurt her when she said she would call the police.

The petitioner submits statements from friends in support of her claim of abuse; however, these statements offer no additional probative details. The petitioner's friends, [REDACTED] generally state that the petitioner told them L-C- was abusive. [REDACTED] states in a letter dated October 12, 2009, that the petitioner told her about her husband's drug abuse, and that one night the petitioner was in tears and told her that L-C- had pushed her to the floor and tried to kick and beat her. Additional statements from [REDACTED] provide similar general claims indicating that the petitioner told them of L-C-'s abuse and that they saw bruises on the petitioner's body.

Upon review, the petitioner's statements and the statements from her friends are insufficient to establish, by a preponderance of the evidence, that the petitioner was battered or subjected to extreme cruelty by her former spouse during her marriage. Although the petitioner indicates generally that L-C- treated her badly, stole from her, and that he pushed her and threatened to harm her, her statements lack detailed descriptions regarding specific instances of the abuse she purportedly suffered. Similarly, the

² The petitioner indicates that her June 18, 2010 statement is added to a previous affidavit. The previous affidavit, dated November 25, 2009, provides information about where the petitioner lived prior to filing the petition, and states that she was never arrested. The affidavit does not discuss abuse by the petitioner's spouse.

letters from the petitioner's friends discuss in only general statements, incidents of abuse that the petitioner told them about. The petitioner has therefore failed to establish that her former spouse subjected her to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

Qualifying Relationship

Beyond the decision of the director, as the petitioner has failed to establish the requisite battery or extreme cruelty, she has also failed to demonstrate any connection between her divorce and such battery or extreme cruelty. Consequently, the petitioner has not demonstrated that she had a qualifying relationship with a U.S. citizen pursuant to section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act.

Conclusion

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.