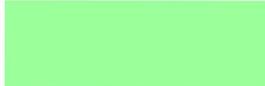


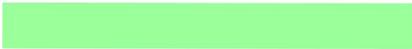


U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JAN 30 2015** 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:

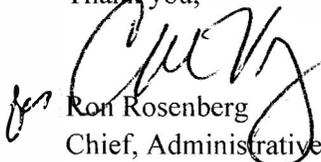


INSTRUCTIONS:

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 Acting Director, Vermont Service Center (“acting 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 acting director denied the petition for failure to establish that the petitioner married her husband in good faith. On appeal, the petitioner submits a brief.

Relevant Law and Regulations

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).

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 for an abused spouse self-petition are further explained in 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 explained in 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

(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 Mexico who contends she entered the United States on January 11, 1992, without inspection, admission, or parole. The petitioner married I-R-¹, a U.S. citizen, on February [REDACTED] California. The petitioner filed the instant Form I-360 self-petition on November 9, 2012. The acting director subsequently issued two Requests for Evidence (RFE) of, among other things, the petitioner's good-faith entry into the marriage. The petitioner timely responded to the RFEs with additional evidence, which the acting director found insufficient to establish the petitioner's eligibility. The acting director denied the petition and the petitioner filed a timely appeal.

We conduct review on a *de novo* basis. Upon a full review of the record, the petitioner has not overcome the acting director's ground for denial. The appeal will be dismissed for the following reasons.

Entry into the Marriage in Good Faith

The director correctly determined that the petitioner failed to establish that she married I-R- in good faith. The petitioner initially submitted a declaration stating that she met I-R- in February 2010. She stated that he was the nicest man she had ever met and that she thought he was too good to be true. She described having a discussion with him about marriage and kids, and explaining that she was not ready to be in a serious relationship because she was only twenty-one years old. She stated that she decided to stay with I-R- after he made her feel badly about breaking up with him. The petitioner did not describe in probative detail how she met I-R-, their courtship, wedding ceremony, shared residence, and shared experiences apart from the abuse. The petitioner did not discuss her marital intentions, but rather, claimed she was not ready to be in a serious relationship.

In response to the RFE, the petitioner submitted letters from friends [REDACTED] a letter from [REDACTED], joint bank account statements, and photographs of the petitioner and I-R- together. The letters from Mr. [REDACTED] and Ms. [REDACTED] failed to provide substantive information regarding the petitioner's marital intentions. For instance, Mr. [REDACTED] statement briefly recounted that the petitioner and I-R- held hands and danced at his niece's birthday party.

¹ Name withheld to protect the individual's identity.

Ms. [REDACTED] briefly stated the couple dated beginning in February of 2010 and that she attended their wedding ceremony. However, neither Mr. [REDACTED] nor Ms. [REDACTED] described in probative detail any visit or interaction with the couple that would establish their personal knowledge of the relationship. The letter from [REDACTED] and the bank statements show that the petitioner and I-R- shared some fiscal responsibilities. The photographs show the petitioner and I-R- on their wedding day and several other unidentified occasions. The statements and the photographs, without probative testimony, are insufficient to establish that the petitioner married I-R- in good faith.

On appeal, the petitioner contends that she submitted extensive documentation showing that she entered into her marriage in good faith. The petitioner does not, however, address the deficiencies of the record or provide any additional substantive information about her relationship with I-R-. Accordingly, the preponderance of the evidence does not show the petitioner's good-faith entry into her marriage, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

On appeal, the petitioner has failed to establish that she entered into marriage with I-R- in good faith. She is consequently eligible 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.