



U.S. Citizenship
and Immigration
Services

(b)(6)



Date:

FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

JUL 15 2015

IN RE:

Petitioner: [REDACTED]

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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the petition. 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 his U.S. citizen spouse.

The director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, finding that the petitioner did not establish that he entered into the marriage with his wife in good faith. On appeal, the petitioner submits a brief.

Applicable Law

Section 204(a)(1)(A)(iii)(I) of the Act provides that an alien who is the spouse of a U.S. citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the U.S. 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 regulation at 8 C.F.R. § 204.2(c)(1) provides, 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:

(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.

Facts and Procedural History

The petitioner, a native and citizen of Thailand, last entered the United States on June 16, 2006 as an F-1 nonimmigrant student. He married P-R-¹ a U.S. citizen, on [REDACTED] 2007 in [REDACTED] Nevada. The petitioner filed the instant Form I-360 self-petition on January 10, 2011. The director subsequently issued a Request for Evidence (RFE) of, among other things, the petitioner's good-faith entry into marriage. The petitioner timely responded with additional evidence, which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and the petitioner timely appealed.

We review these proceedings *de novo*. On appeal, the petitioner has not overcome the director's sole ground for denial. The appeal will be dismissed for the following reasons.

Entry into the Marriage in Good Faith

A preponderance of the relevant evidence submitted below did not demonstrate that the petitioner entered into his marriage with P-R- in good faith and the petitioner submits no further evidence on appeal. In his initial affidavit, the petitioner stated that he and P-R- married because they loved each other. He reported that they first met at a bar, where P-R- was working as a bartender, and recalled that they laughed and exchanged glances and smiles. The petitioner stated that he returned to the bar a few times before asking P-R- out, at which point they began dating. He recalled P-R- expressing interest in him, telling him about her children, and saying that he was the first man she really liked and felt she could depend on. The petitioner stated that he was pleased with her words, told her he shared her feelings, asked her to marry him, and she agreed. He claimed that he and P-R- resided together from [REDACTED] 2007 to July 15, 2010.

In his second affidavit, submitted in response to the RFE, the petitioner provided some further detail of his relationship with P-R-. He stated that their first meeting at the bar occurred in December 2006 and after a few visits to see her there, he took P-R- out and they spent her day off together. According to the petitioner, he and P-R- enjoyed each other's company, began seeing one another three times a week, called each other late at night, and discussed their childhood and life frustrations. He recalled growing emotionally attached to P-R-, inviting her to dinner at his home during the first week of July 2007, and described his preparations for the evening and P-R-'s clothing. The petitioner stated that it was then she told him she really liked him and he asked her to marry him. He

¹ Name withheld to protect the individual's identity.

said the ring he gave her was inexpensive, but P-R- liked it and was happy. The petitioner stated that he and P-R- were in a relationship for eight months before deciding to marry and this "was a long period that enabled [them] to know [their] feelings" and to make decisions regarding their "intention to share life together." He claimed they decided to get married as soon as possible, and he told some friends of his wedding plans. He recalled that he and P-R- married in [REDACTED] where they honeymooned for five days before returning to [REDACTED]. According to the petitioner, P-R- and her two children then moved into his apartment and they were happy together for one year, after which P-R- became abusive. The petitioner's affidavits do not contain sufficient probative detail regarding his courtship with P-R-, their wedding ceremony, shared experiences apart from the abuse, and his intentions in marrying her.

The petitioner also submitted the affidavits of four friends. [REDACTED] stated that the petitioner and P-R- married because they loved each other, and that he visited their home on one occasion. [REDACTED] asserted that the former couple married for love. [REDACTED] stated that the petitioner told her he planned to marry P-R- because he loved her. [REDACTED] indicated that she was in the bar with the petitioner when he first met P-R-, whom he expressed interest in immediately, later described as the woman of his dreams, and eventually said he planned to live with and marry. All of the affidavits lack detail concerning the petitioner's courtship and marriage with P-R-, indicate that the affiants learned of the petitioner's plans to marry P-R- only shortly before or after the wedding occurred, and mention these plans only briefly. None reflect a personal knowledge of the wedding ceremony or establish the petitioner's intentions in marrying P-R-.

The petitioner also submitted a psychological evaluation by [REDACTED] Psy.D., who primarily relayed the petitioner's claims of abuse by P-R- as told to Dr. [REDACTED] by the petitioner, and discussed the petitioner's therapeutic treatment. In addition, Dr. [REDACTED] indicated that the petitioner told him he first met P-R- in a bar in "early-mid 2007." This statement is inconsistent with the petitioner's claim in his second affidavit that his first meeting with P-R- in a bar occurred in December 2006.

The petitioner also provided a copy of his marriage certificate and abstract, a joint income tax return, financial records, photographs, and residential leases. The petitioner's 2007 income tax return indicates that he filed jointly with P-R- that year, but no other returns have been submitted indicating that they similarly filed during the other years they were married. His marriage certificate and certified abstract of marriage show that the petitioner and P-R- were married on [REDACTED] 2007, but do not establish his marital intentions. Similarly, the photographs the petitioner submitted of himself and P-R- at their wedding and on other unspecified occasions show them together but do not establish that he married her in good faith. The petitioner also provided joint bank account statements, photocopies of credit and debit cards issued to himself and P-R-, and cellular telephone bills bearing both their names. While the documents described show generally that the petitioner was lawfully married to P-R- and resided for a time with her, without a probative account of their relationship, they are insufficient to establish that he married her in good faith.

The petitioner also submitted documentary evidence that conflicts with statements he made in his personal affidavits. For example, the petitioner provided copies of residential apartment leases for October 1, 2007 through September 30, 2011. The first lease, signed by the petitioner on July 30, 2007, indicates that the lease term began on October 1, 2007 and ended on September 30, 2008. The

lease lists only the petitioner as a tenant, and bears only the petitioner's signature. However, in both of the petitioner's affidavits, he claimed that he proposed to P-R- during the first week of July 2007, prior to signing the lease, and that P-R- and her two children moved in with him after they married on [REDACTED] 2007. The lease does not indicate that P-R- would reside in the apartment with the petitioner, and does not reflect an intention on his part to marry and reside with her less than one month later. The lease for October 1, 2010 through September 30, 2011 bears the signatures of the petitioner and P-R-, dated July 28, 2010. However, the petitioner asserted in his first affidavit that P-R- left him on July 15, 2010, nearly two weeks before she allegedly signed this lease. Due to the discrepancies described, the residential leases do not support the petitioner's claim that he entered into the marriage with P-R- in good faith.

The petitioner has not described in probative detail his courtship with P-R-, their wedding ceremony, or any shared experiences apart from the abuse. The petitioner's affidavits and those of his friends lack the necessary insights into his good-faith marital intentions. In addition, the record contains discrepancies, as described, which diminish the probative value of the evidence. Consequently, the petitioner has not overcome the director's sole ground for denial on appeal. The preponderance of the relevant evidence does not demonstrate the petitioner's good-faith marital intentions, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

The record does not establish by a preponderance of the evidence that the petitioner entered into the marriage with his wife in good faith. The petitioner is, therefore, ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. In these proceedings, the petitioner bears the burden of proof to establish eligibility by a preponderance of the evidence. 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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.