



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **MAY 19 2015**

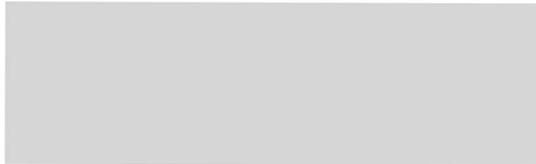
FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Self-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:



INSTRUCTIONS:

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

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, (“the director”), denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed the subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion to reopen will be granted. The AAO’s prior decision will be withdrawn and the appeal will be sustained.

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 a U.S. citizen.

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.

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 [REDACTED] 2006 in [REDACTED] Pennsylvania. The petitioner filed the instant Form I-360 on May 7, 2013. The director denied the petition for failure to establish the petitioner's entry into the marriage in good faith. The AAO dismissed the petitioner's appeal on June 18, 2014. The petitioner timely filed a motion to reopen.

On motion, the petitioner submits additional declarations from herself and her father. The petitioner's submission meets the requirements for a motion to reopen at 8 C.F.R. § 103.5(a)(2). Accordingly, the motion to reopen is granted.

Entry into the Marriage in Good Faith

In our prior decision, we determined that the relevant evidence submitted below failed to demonstrate the petitioner's entry into her marriage in good faith. We stated that the relevant documents show that the couple filed a joint tax return, were photographed together, had a telephone account and bank account, and resided together. We found, however, that the petitioner's affidavit did not describe 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. We also found that the statements from the petitioner's friend, [REDACTED] and her father, [REDACTED], did not describe any interactions with the couple, or their personal knowledge of the relationship.

On motion, the petitioner explains in her declaration how she first met her husband and she recounts the details of their courtship. She discusses how they became engaged and describes their wedding and reception. The petitioner also recounts in probative detail her shared residence and experiences with her husband during their marriage. In his declaration submitted on motion, [REDACTED] discusses his interactions with and observations of the petitioner and her husband during the couple's courtship and marriage. These additional statements, in conjunction with the evidence relevant evidence submitted below, provide a detailed and credible account of the petitioner's marital intentions. When viewed in the totality, the preponderance of the evidence demonstrates that the petitioner entered into marriage with her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

In these proceedings, the petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N

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Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has been met. Upon reopening, the June 18, 2014 decision of the AAO will be withdrawn and the appeal will be sustained.

ORDER: The motion to reopen is granted. The AAO's prior decision, dated June 18, 2014, is withdrawn. The appeal is sustained and the petition approved.