U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-V-R-

DATE: OCT. 7, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The Director denied the petition on the basis that the Petitioner had not established that she entered into her marriage with her former U.S. citizen spouse in good faith. On appeal, the Petitioner submits a brief, an updated personal statement, and additional evidence.

I. 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.

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:

> (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.
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> (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.

II. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner, a citizen of Bulgaria, last entered the United States on May 26, 2011, as a J-1 exchange visitor. The Petitioner married A-K-[1], a U.S. citizen, on [redacted] 2012 in Massachusetts. The couple later divorced on [redacted] 2015. The Petitioner filed the instant Form I-360 self-petition on June 6, 2014. The Director subsequently issued a request for evidence (RFE) establishing, among other things, the Petitioner's good faith entry into her marriage with A-K-. The Petitioner responded to the RFE with additional evidence, which the Director found insufficient to establish the Petitioner's eligibility. The Director denied the petition and the Petitioner timely appealed.

III. ANALYSIS

We conduct appellate review on a *de novo* basis. Upon a full review of the record, as supplemented on appeal, the Petitioner has overcome the Director's ground for denial. The appeal will be sustained for the following reasons.

[1] Name withheld to protect the individual's identity.

A. Entry into the Marriage in Good Faith

The relevant evidence submitted below and on appeal demonstrates the Petitioner's good faith entry into her marriage with A-K-. In her statements, the Petitioner described in probative detail her initial meeting with A-K- in the summer of 2011 at a local club through a mutual friend. She recounted substantive information about their relationship, including their courtship, wedding ceremony, and shared experiences. The Petitioner recalled their mutual decision in November 2011 to have her work at A-K-'s pizzeria and described how their work and personal lives became intertwined. The Petitioner further described in probative detail A-K-'s wedding proposal in January 2012 at her favorite restaurant, their decision to rent an apartment and move in together in May 2012, and their wedding ceremony on the beach in 2012. She also recounted in detail their honeymoon in November 2012 in Florida and other shared experiences following their marriage.

The Petitioner submitted, below and on appeal, numerous photographs of her wedding, as well as photographs of herself with A-K- on different occasions, including their honeymoon to Florida. She submitted copies of letters from and acknowledging that A-K- had been added as an authorized user on her respective credit card accounts, and also submitted several corresponding credit card statements. Likewise, the record includes copies of statements for the couple's joint savings and checking accounts, leases for their marital residence executed by both the Petitioner and A-K-, wedding cards addressed to the couple, the Petitioner's automobile insurance documents showing A-K- had been added as a driver since shortly after their marriage, and electric and cable bills from the couple's marriage addressed to A-K- at the couple's joint residence.

The Director noted that the record indicates that A-K- spent a significant amount of the time during the couple's marriage in Florida, away from their Massachusetts residence. On appeal, the Petitioner credibly explains that A-K- traveled to Florida with the intention that he would open a new pizzeria business in Florida and she submitted flight itineraries for two trips she made to Florida to join him there. She also indicates that she discovered after their marriage that her spouse had a cocaine addiction, and in June 2013, she learned that he had been arrested in Florida for cocaine possession in 2013, requiring him to be in Florida for a significant period for his court hearings.

The record also includes the affidavits of the Petitioner's sister and several friends and coworkers of the Petitioner and her former spouse, who provided substantive and credible information regarding their knowledge of the couple's long term relationship and their own shared experiences with the couple. On appeal, she also provided an affidavit from A-K-'s father, stating that he had known of his son's and the Petitioner's romantic relationship since approximately November 2011, had thought of the Petitioner as a daughter since even before their marriage, and had been hopeful that she would help his son overcome his cocaine addiction.

Upon *de novo* review of the record, the Petitioner has demonstrated by a preponderance of the evidence that she entered into her marriage with A-K- in good faith. The Petitioner has submitted her own personal statements and the statements of family and friends, providing probative details of her good faith marital intentions. In addition, the Petitioner has submitted substantial and relevant

documentary evidence to demonstrate her good faith marital intentions. When viewed in the totality, the preponderance of the relevant evidence establishes that the Petitioner married A-K- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

IV. CONCLUSION

On appeal, the Petitioner has overcome the Director's ground for denial, having established that she entered into the marriage with her former spouse in good faith. Accordingly, the Petitioner has established her eligibility 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, that burden has been met, and the appeal will be sustained.

ORDER: The appeal is sustained.

Cite as *Matter of A-V-R-*, ID# 13899 (AAO Oct. 7, 2015)