U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-B-M-T-

DATE: APR. 29, 2016

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) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not enter into the marriage with his spouse in good faith.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner claims that the Director did not properly analyze or consider the evidence in the record of proceedings.

Upon *de novo* review, we will dismiss the appeal.

I. 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.

The eligibility requirements 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)(1), which 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:

> (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.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). A petitioner may submit any evidence for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner, a citizen of the Dominican Republic, married K-M-,[1] a U.S. citizen, in Rhode Island. The Petitioner filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and the Director issued a request for evidence (RFE) establishing, among other things, that the Petitioner entered into the marriage with K-M- in good faith. The Petitioner submitted additional evidence in response to the RFE, which the Director found insufficient to establish the Petitioner's eligibility. Accordingly, the Director denied the Form I-360 and the Petitioner submitted a timely appeal. On appeal, in addition to a brief, the Petitioner submits a personal statement; a letter from a record of his travel history to the United States; medical records; a letter from and an article regarding male victims of domestic violence.

III. ANALYSIS

The relevant evidence submitted before the Director and on appeal does not demonstrate that the Petitioner entered into his marriage in good faith.

In his personal statement submitted with the Form I-360, the Petitioner recounts that he met K-M- in March 2010 at a nightclub in Rhode Island, during an event for which he was hired to

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

sing. He states that she approached him, he liked her demeanor, they started talking, and they "hung out" almost every day while he was in the United States. The Petitioner states that he and K-M- stayed in touch via Skype and telephone after he left the United States and that K-M- came to the Dominican Republic to visit him and he visited her in the United States during a two-year courtship. He also states that they became engaged on 2011, and were planning to marry in April 2012 but he learned one week prior to their wedding that K-M- had been married before and was not yet divorced from her husband. He claims that they cancelled plans for the wedding but did not end their relationship until 2012.

The Petitioner relates that he then dated and married a friend of K-M-'s in 2012, but soon realized he still loved K-M- and not his spouse, so he left the United States in early-September 2012. According to the Petitioner, K-M- visited him in March 2013 in the Dominican Republic, they resumed their relationship, and married when both were divorced from their prior spouses. The remainder of his personal statement relates to abuse he experienced before and during their marriage.

In his personal statement submitted in response to the RFE, the Petitioner recounts essentially the same description of the beginning and progression of his and K-M-'s relationship as he did in his first personal statement. In a third personal statement submitted on appeal, the Petitioner describes his and K-M-'s living arrangements before and after they married, explains why he is unable to obtain certain documentary evidence of their relationship, and reiterates his description of incidents of abuse. While his statements provide a chronology of his relationship with K-M-, they do not provide detailed information regarding the couple's courtship, decision to marry, wedding ceremony, residence, and shared experiences sufficient to establish that he entered into the marriage with K-M- in good faith. *See* 8 C.F.R. § 204.2(c)(2)(vii). For example, the Petitioner reported in his first and second personal statements that he and K-M- resumed their relationship in March 2013, but his travel history, as described in documents submitted on appeal, reveals four trips in 2011 and only one trip (his final) to the United States on April 4, 2014. Similarly, the travel records he provided for K-M- reflect one trip by K-M- to the Dominican Republic on November 30, 2011. The Petitioner does not explain the dynamics of his relationship with K-M- and their decision to resume their relationship in 2013, which is a period of time when the couple were living in different countries.

Letters from the Petitioner's friends do not provide sufficient details about the couple's relationship and, therefore, do not establish that the Petitioner entered into the marriage with K-M- in good faith. Letters submitted with the Form I-360 from and only focus on the abuse in the marriage, and do not discuss the Petitioner's good-faith intentions in entering the marriage. A second letter from submitted in response to the RFE indicates that the Petitioner and K-M- had a loving relationship and they "married in the hopes of establishing a life together" but she does not describe any particular visit or social occasion with the couple, or any interactions with the couple that would establish her personal knowledge of their relationship. in a letter also submitted in response to the RFE, explains that the Petitioner and K-M- were "very loving and caring to each other," that she went out with the Petitioner and K-M- on several occasions, and they used Facebook and Instagram to express their love to each other, but she does not provide details of what she knew about the couple's relationship

or courtship. The Petitioner also submitted a letter from who married the couple, and indicates in his letter that he met with the Petitioner and K-M- for marriage counseling but he does not describe their marital relationship sufficiently to support a finding that the Petitioner entered into the marriage with K-M- in good faith.

In addition, the Petitioner's documentary evidence is not sufficient to establish the Petitioner's good-faith entry into his marriage with K-M-. Letters from and the Social Security Administration separately addressed to the Petitioner and K-M- at the same address, cable bills addressed solely to the Petitioner, articles of incorporation filed when the Petitioner and K-M- lived together but reflecting separate addresses, and an electric bill addressed solely to K-M- after she and the Petitioner separated do not establish that the Petitioner entered into the marriage with K-M- in good faith. In a letter submitted on appeal, a domestic violence advocate at indicates that the Petitioner is a client of and she describes the abuse to which the Petitioner was subjected by K-M- but she does not provide any information relevant to whether the Petitioner entered into his marriage with K-M- in good faith. Similarly, a letter from submitted on appeal, does not address the Petitioner's intent in entering into his marriage with K-M-.

The records of the Petitioner's travel history to the United States, which he submits on appeal, also do not establish he entered into the marriage with K-M- in good faith. As he describes in his personal statements, the Petitioner is a singer and he is hired to perform in the Dominican Republic, Colombia, and the United States. The Petitioner's visa to the United States indicates that it was issued to him on May 28, 2013, in his capacity as a performer. The travel history record provided on appeal indicates three visits by the Petitioner to the United States from February to November 2011 and one final trip to the United States on April 4, 2014. Given that the Petitioner is a performer-for-hire and his parents and sister live in the United States, the repeated visits to the United States in 2011 do not necessarily reflect a courtship with K-M- during that period of time.

The photographs submitted by the Petitioner reflect that the Petitioner and K-M- were photographed together on several occasions. Many of the photographs submitted show the Petitioner and K-M- socializing on a variety of occasions by themselves and with other persons, including family members; however, they do not establish that the Petitioner entered the marriage with K-M- in good faith.

On appeal, the Petitioner discusses the lease he submitted as evidence of his good faith intentions in marrying because the Director stated in the denial letter that the lease was signed when the Petitioner and K-M- were no longer living together. The Petitioner states that he and K-M- resided together until October 13, 2014, a date reflected in hospital records that he submits on appeal and, therefore, according to the Petitioner, the lease is evidence of his good faith entry into his marriage. The medical records indicate that the Petitioner visited the emergency room for anxiety on October 13, 2014. At the time of his visit, he listed his address on in Rhode Island, which is not the address of the marital residence. The Petitioner also listed his mother as the primary contact, stating that she also shared the same address. According to the notes of the attending physician: "general weakness for past few weeks since he separated from his

wife . . . ." The physician's notes and the Petitioner's listing of his address separate from the marital residence do not support the Petitioner's claims on appeal that he and K-M- lived together until October 13, 2014 and, therefore, the lease is not credible evidence of his good faith entry into his marriage.

When viewed together, the testimonial and documentary evidence does not show that the Petitioner entered into his marriage with K-M- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

IV. CONCLUSION

On appeal, the Petitioner has not established that he married K-M- in good faith. He is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. Accordingly, the appeal will be dismissed and the Form I-360 will remain denied for the above-stated reasons.

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.

Cite as *Matter of A-B-M-T-*, ID# 16690 (AAO Apr. 29, 2016)