U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-A-N-

DATE: JAN. 14, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner seeks immigrant classification as an abused spouse of a United States 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. We dismissed a subsequent appeal. The matter is now before us on a motion to reopen. The motion will be denied.

I. APPLICABLE LAW

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 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 statements of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.

II. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Cameroon who entered the United States on June 24, 2000, as a B-2 nonimmigrant visitor. She married R-J,[1] a United States citizen, on 2013, in Texas. The Petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on April 7, 2014. On September 18, 2014, the Director denied the petition. On May 14, 2015, we dismissed a subsequent appeal, concluding that although the Petitioner had established that she resided with R-J-, she had not established her good-faith entry into the marriage to R-J-. The matter is now before us on a motion to reopen.

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). On motion, the Petitioner reasserts her eligibility and contends that we improperly denied her appeal. In support of this motion the Petitioner submits a statement, dated June 10, 2015, in which she asserts that she has provided sufficient evidence to establish that she married R-J- in good faith, and that during the marriage, she was battered and subjected to extreme cruelty perpetrated by R-J-. She also submits a letter, dated February 25, 2015, from a counselor with the

We review these proceedings *de novo*. A full review of the record fails to establish the Petitioner's eligibility. The motion will be denied for the following reasons.

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

III. ANALYSIS

Our May 14, 2015, decision is incorporated here by reference. In summary, we reviewed the evidence of record and determined that the Petitioner had not provided detailed testimony regarding her initial meeting with R-J-, their courtship, wedding ceremony, or their subsequent interactions, except as it related to her claim of abuse. *See* 8 C.F.R. § 204.2(c)(2)(vii). We further determined that that the Petitioner submitted supporting statements that do not provide probative details regarding the Petitioner's good-faith entry into marriage with R-J-. We also found deficiencies in the Petitioner's documentary evidence, and ultimately determined that the preponderance of the evidence did not establish her good-faith intentions in marrying R-J-.

On motion, the Petitioner references the statements submitted below and asserts that she provided sufficient evidence to support her claim of good-faith entry into the marriage. In particular, the Petitioner highlights a statement that she submitted below from R-J-'s mother, and asserts that it shows that she married R-J- in good faith. In her statement, stated that she met the Petitioner when her son introduced her as his fiancée. She recounted that she attended the couple's wedding ceremony, which she described as "beautiful." As stated in our previous decision, the remainder of statement recounts problems in the couple's relationship. It does not further address interactions with the Petitioner and R-J- during the couple's marriage, or her knowledge of the Petitioner's good-faith marital intentions. The Petitioner also asserts that her friend, attested that she spent Thanksgiving with the Petitioner and R-J-. Despite her claim of frequent interactions with the couple, statement does not describe any particular visit or social occasion with the couple in detail, or otherwise provide detailed information establishing her personal knowledge of the relationship, apart from the abuse.

The Petitioner also references her previously submitted documentary evidence, including the couple's joint homeowner's insurance and cellular phone bills, and a police report, to support her claim of good-faith entry into the marriage. The Police Department offense report shows that the Petitioner was assaulted, but does not mention the suspect's name, and contains no information on the Petitioner's good-faith entry into the marriage. The homeowner's insurance document and two cellular phone bills demonstrate the couple's joint residence, but without probative testimony from the Petitioner, these documents are insufficient to establish her entry into the marriage in good faith. The Petitioner submits on motion a mental health assessment from the In her assessment, the counselor, determined that the Petitioner was "experiencing common effects of domestic violence." Although the input of is respected and valuable, the report largely focuses on abuse in the relationship and does not describe in probative detail the Petitioner's intent in entering into her marriage. It is therefore of little probative value in establishing the Petitioner's good faith intent when entering into her marriage.

The Petitioner contends that because we determined that she has established joint residency and the requisite battery or extreme cruelty, it is a contradiction to find that she did not establish her good-faith entry into the marriage. The Petitioner claims that an individual cannot establish joint residence and abuse without having entered into the relationship in good faith. The Petitioner misinterprets the statutory requirements as redundant. Section 204(a)(1)(A)(iii) of the Act prescribes

five distinct statutory eligibility requirements. Although the same or similar evidence may be submitted to demonstrate, for example, joint residence and good-faith entry into the marriage, meeting one eligibility prong will not necessarily demonstrate the other. When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the Petitioner entered into marriage with R-J- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

IV. CONCLUSION

On motion, the Petitioner has not demonstrated that she entered into marriage with R-J- in good faith. Accordingly, the Petitioner is ineligible 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. at 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion to reopen is denied.

Cite as *Matter of G-A-N-*, ID# 15111 (AAO Jan. 14, 2016)