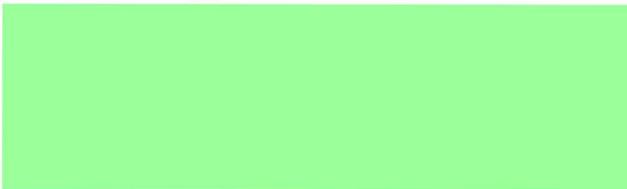
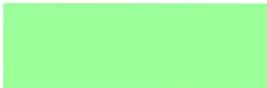


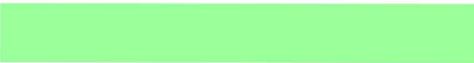


U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **OCT 21 2014** Office: VERMONT SERVICE CENTER File: 

IN RE: Self-Petitioner: 

PETITION: Petition for Immigrant Abused Parent Pursuant to Section 204(a)(1)(A)(vii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(vii)

ON BEHALF OF PETITIONER:

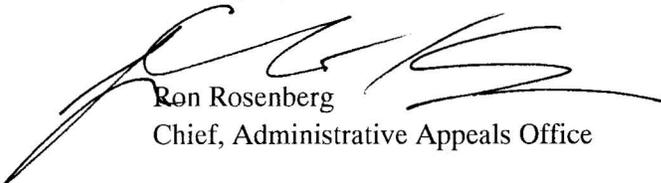


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (“the director”), denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(vii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(vii), as an alien parent battered or subjected to extreme cruelty by her United States citizen son. The director denied the petition for failure to establish that the petitioner was subjected to battery or extreme cruelty by her son. On appeal, the petitioner, through counsel, submits a brief and additional evidence.

Relevant Law

Section 204(a)(1)(A)(vii) of the Act provides that an alien who is the parent of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she was battered or subjected to extreme cruelty perpetrated by the alien’s daughter or son. 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 daughter or son, and is a person of good moral character. Section 204(a)(1)(A)(vii) of the Act, 8 U.S.C. § 1154(a)(1)(A)(vii).

Pertinent Facts and Procedural History

The petitioner is a citizen of Mexico who last entered the United States in April 2001 without being admitted or inspected. The petitioner gave birth to her son, C-R-¹, in [REDACTED] Texas, on July 23, [REDACTED]. The petitioner filed the instant Form I-360 self-petition on August 31, 2012. The director subsequently issued a Request for Evidence (RFE) of C-R-’s battery or extreme cruelty. The petitioner, through counsel, timely responded to the RFE with additional evidence, which the director found insufficient to establish the petitioner’s eligibility. The director denied the petition and counsel filed a timely appeal.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A full review of the record fails to establish the petitioner’s eligibility. Counsel’s claims and the additional evidence submitted on appeal do not overcome the director’s ground for denial and the appeal will be dismissed.

Battery or Extreme Cruelty

In her initial statement, the petitioner described how problems with her son C-R- began when he was fifteen years old. She stated that C-R- abused drugs, almost died from a drug overdose, and was in rehabilitation. She recounted that he would confront her and offend her. According to the petitioner, even though C-R- now has his own child, he still needs the petitioner’s support and guidance. In response to the RFE, the petitioner submitted an additional statement briefly describing C-R- as rude, arrogant, verbally aggressive, and vulgar. The petitioner’s older son, [REDACTED] briefly recounted that C-R-

¹ Name withheld to protect the individual’s identity.

was aggressive with his mother and used obscene language, causing her to become depressed. The petitioner's friends [REDACTED] and her daughter-in-law, [REDACTED] similarly described C-R-'s use of obscene words that hurt the petitioner's feelings.

The record also includes a copy of the petitioner's prescription for antidepressant medication and a letter from her physician stating that she has been treated for depression. In her mental health assessment of the petitioner, licensed social worker [REDACTED] diagnosed the petitioner with Post Traumatic Stress Disorder and Major Depression. She stated that C-R- used drugs, drank alcohol every day, and insulted his mother. According to Ms. [REDACTED] C-R- once pushed the petitioner and she fears his rage. Ms. [REDACTED] also discussed threats and demands from C-R-'s ex-girlfriend, the mother of his child. However, the petitioner herself did not discuss the behavior of C-R-'s ex-girlfriend and C-R-'s role in any abuse that stemmed from her, except to briefly mention in her second affidavit, "the many problems with the woman [who had] his child."

On appeal, counsel contends that the evidence below compels a finding that the petitioner suffered from extreme mental abuse, but submits copies of documents unrelated to this issue (the petitioner's residential lease, receipts, and bills). Counsel stated that she was submitting an updated letter from the petitioner's physician, Dr. [REDACTED] but none was attached to counsel's brief and the record does not contain any updated letter from Dr. [REDACTED]

The record establishes that the petitioner's son insulted her, used vulgar and obscene language, and that his behavior and her care for him and his child has caused her emotional pain and stress. The relevant evidence does not, however, describe in probative detail any battery or extreme cruelty. *Cf.* 8 C.F.R. § 204.2(c)(1)(vi) (defining battery or extreme cruelty as behavior that includes, but is not limited to any act or threatened act of violence, psychological or sexual abuse or exploitation).² Although the petitioner and several of the affiants gave examples of C-R-'s insults in Spanish, they have not provided English translations. *See* 8 C.F.R. § 103.2(b)(3) (requiring that any document containing foreign language submitted to United States Citizenship and Immigration Services (USCIS) be accompanied by an English language translation). In addition, they have not described any particular incident of verbal abuse or demonstrated that any of the offending language included threatened violence, psychological or sexual abuse, or any other form of extreme cruelty.³

² The abused parent self-petitioning provisions were enacted in 2005. Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, § 816, 119 Stat. 2960 (Jan. 5, 2005). U.S. Citizenship and Immigration Services (USCIS) has not yet promulgated corresponding regulations. However, the regulations for the abused spouse provisions at 8 C.F.R. § 204.2(c)(1)(vi) define the term battery or extreme cruelty, which is used in all the self-petitioning provisions of section 204(a) of the Act for abused spouses, children and parents.

³ The petitioner and counsel do not claim that C-R- battered the petitioner. Although Ms. [REDACTED] briefly stated that C-R- once pushed his mother, the petitioner herself did not discuss any physical assault. The petitioner's friend, [REDACTED] also stated that C-R- "has never put a hand on [the petitioner], but said he tells ... her things that hurt her feelings."

On appeal, counsel further asserts that “the impact of living with a drug addicted person with mental illness” further shows that the petitioner suffered “extreme mental abuse.” The present record does not support this claim. The relevant evidence shows that in 2007, C-R- was disciplined and hospitalized due to his use of controlled substances and was treated for depression and a mood disorder. These events occurred when C-R- was 17 years old. The statute requires that the battery or extreme cruelty be committed by the adult citizen daughter or son. Section 204(a)(1)(A)(vii)(V) of the Act, 8 U.S.C. § 1154(a)(1)(A)(vii)(V). *See also* USCIS Policy Memorandum (PM-602-0046), *Eligibility to Self-Petition as a Battered or Abused Parent of a U.S. Citizen*, 3-4 (Aug. 30, 2011) (Self-petitioning parent must demonstrate that he or she was subjected to battery or extreme cruelty by the adult U.S. citizen son or daughter). The present record does not demonstrate that C-R-’s drug use and mental illness resulted in an ongoing cycle of battery or extreme cruelty against the petitioner after he turned 21. In her first affidavit, the petitioner briefly stated that after he turned 15, C-R- once overdosed and “was put in rehabilitation and received therapy,” but she did not discuss his behavior after that time except to express her fear that he would try to commit suicide and that he was “going through several problems regarding his son.” In her second affidavit, the petitioner reiterated these concerns and added that C-R- continued to be disrespectful, rude and arrogant, but she did not describe any particular incident of battery or extreme cruelty occurring after C-R- turned 21.

The preponderance of the relevant evidence does not establish that C-R- subjected the petitioner to battery or extreme cruelty, as required by section 204(a)(1)(A)(vii)(V) of the Act.

Conclusion

On appeal, the petitioner has not established that her son subjected her to battery or extreme cruelty. She is consequently ineligible for immigrant classification under section 204(a)(1)(A)(vii) 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. 127, 128 (BIA 2013). Here, that burden has not been met and the appeal will be dismissed.

ORDER: The appeal is dismissed.