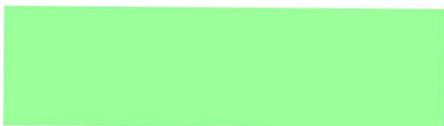


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



Date: **NOV 04 2013** Office: VERMONT SERVICE CENTER FILE: 

IN RE: Petitioner: 

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:

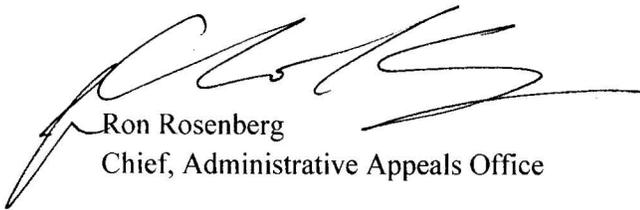
SELF-REPRESENTED

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 Vermont Service Center Director (the director) revoked approval of the immigrant visa petition after properly notifying the petitioner and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the petition will remain denied.

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 United States citizen.

The director revoked approval of the petition upon learning that the petitioner was married to another man at the time of her marriage to the abusive U.S. citizen. On appeal, the petitioner submits a letter explaining that she has not been able to return to the Philippines to obtain the necessary evidence.

Applicable Law

Section 205 of the Act, 8 U.S.C. § 1155, states the following:

The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204. Such revocation shall be effective as of the date of approval of any such petition.

The regulation at 8 C.F.R. § 205.2(a) states, in pertinent part, the following:

Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 [for automatic revocation] when the necessity for the revocation comes to the attention of [U.S. Citizenship and Immigration Services (USCIS)].

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 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, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

Section 204(a)(1)(J) of the Act states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), 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 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.

* * *

(ii) *Relationship.* A self-petition filed by a spouse must be accompanied by evidence of citizenship of the United States citizen It must also be accompanied by evidence of the relationship. Primary evidence of a marital relationship is a marriage certificate issued by civil authorities, and proof of the termination of all prior marriages, if any, of . . . the self-petitioner

Facts and Procedural History

The petitioner is a native and citizen of the Philippines. The petitioner married E-U-¹ in the Philippines on October 18, 1988. The petitioner married G-C-S-² a U.S. citizen, on January 24, 1992 in Saipan, Commonwealth of the Northern Mariana Islands (CNMI), who she divorced on October 17, 2008. The petitioner filed the instant Form I-360 on November 26, 2007, and it was approved on June 30, 2009. On April 10, 2012, the director issued a Notice of Intent to Revoke (NOIR) approval of the Form I-360 petition because the petitioner's first marriage was not known to USCIS at the time her petition was approved, and the evidence showed that her marriage to G-C-S-, upon which her petition was based, was not valid given her prior marriage to E-U-. The director requested evidence that the petitioner's prior marriage to E-U- was legally terminated prior to her marriage to G-C-S-, but received no response. Consequently, the director revoked approval of the petition and the petitioner appealed.

On appeal, the petitioner explains that she is no longer working and has been unable to travel back to the Philippines to obtain the requested evidence. The petitioner requests an extension of time in which to obtain documents from the Philippines, but to date, over eight months later, the AAO has received no additional evidence from the petitioner.

The AAO reviews these proceedings *de novo*. 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. The petitioner's

¹ Name withheld to protect individual's identity.

² Name withheld to protect individual's identity.

statements on appeal do not overcome the director's determinations and the appeal will be dismissed for the following reasons.

Analysis

The regulation at 8 C.F.R. § 204.2(c)(2)(ii) provides that evidence for immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Act requires that the petitioner submit evidence of the marital relationship, including proof that any prior marriage of the petitioner has been legally terminated. The petitioner initially submitted her marriage certificate to G-C-S-, which stated that she had never been previously married. The petitioner also stated on her Form I-360 that she had only been married one time, to G-C-S-. However, at an interview on September 7, 2010 for her adjustment of status application, the petitioner stated that she was previously married to E-U-. In response to a Request for Evidence of the termination of her prior marriage, the petitioner submitted the divorce decree of her first marriage showing she married E-U- on October 18, 1988, and that she did not divorce him until February 2010, after her marriage to G-C-S- from 1992 to 2008. This evidence provided the director with good and sufficient cause to revoke approval of the instant petition.

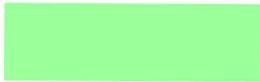
As the petitioner was already married to another man at the time of her marriage to a U.S. citizen upon which her Form I-360 petition is based, her marriage to G-C-S- is not valid for immigration purposes. As a general rule, a marriage will be recognized for immigration purposes if it was valid under the law of the place where it was contracted. *Matter of Arenas*, 15 I&N Dec. 174 (BIA 1975). However, even if valid where contracted, a marriage will not be recognized for immigration purposes if it is contrary to the public policy of the United States. *See Matter of H-*, 9 I&N Dec. 640 (BIA 1962) (polygamous marriages will not be recognized, even if recognized in the jurisdiction where the marriage took place). In this case, the petitioner committed bigamy by being married to two individuals at the same time. Bigamous marriages are contrary to U.S. public policy. *Id.* Consequently, even if the petitioner's marriage to G-C-S- was valid under the law of CNMI, it is invalid for immigration purposes under the Act.

On appeal, the petitioner has submitted no evidence that she divorced her first husband, E-U- prior to her marriage to G-C-S-, as required by the regulation at 8 C.F.R. §§ 204.2(c)(2)(ii). The record shows that the petitioner's marriage to G-C-S- was bigamous and invalid for immigration purposes. Consequently, she did not have a qualifying spousal relationship with a U.S. citizen, as required by section 204(a)(1)(A)(iii) of the Act. The appeal will be dismissed and the approval of the petition will remain revoked.

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 Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the appeal

(b)(6)



NON-PRECEDENT DECISION

Page 5

will be dismissed and the approval of the petition will remain revoked for the reasons stated above.

ORDER: The appeal is dismissed. The approval of the petition remains revoked.