



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FILE: [REDACTED]  
EAC 99 175 53652

Office: Vermont Service Center

Date: JAN 8 2001

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

APPLICATION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act, 8 U.S.C. 1154(a)(1)(B)(ii)

IN BEHALF OF PETITIONER: Self-represented

Public Body  
Identifying data should be removed to prevent clear identification of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of the Dominican Republic who is seeking classification as a special immigrant pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1154(a)(1)(B)(ii), as the battered spouse of a lawful permanent resident of the United States.

The director determined that the petitioner failed to establish that she: (1) has resided in the United States with the citizen or lawful permanent resident spouse; (2) is a person of good moral character; (3) is a person whose deportation (removal) would result in extreme hardship to herself, or to her child; and (4) entered into the marriage to the citizen or lawful permanent resident in good faith. The director, therefore, denied the petition.

On appeal, the petitioner requests reconsideration because she has been residing in the United States for over 12 years.

8 C.F.R. 204.2(c)(1) states, in pertinent parts, that:

(i) A spouse may file a self-petition under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act for his or her classification as an immigrant relative or as a preference immigrant if he or she:

(A) Is the spouse of a citizen or lawful permanent resident of the United States;

(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship;

(C) Is residing in the United States;

(D) Has resided in the United States with the citizen or lawful permanent resident spouse;

(E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; or is the parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage;

(F) Is a person of good moral character;

(G) Is a person whose deportation (removal) would result in extreme hardship to himself, herself, or his or her child; and

(H) Entered into the marriage to the citizen or lawful permanent resident in good faith.

The petition, Form I-360, shows that the petitioner arrived in the United States as a tourist on September 29, 1989. Although the marriage certificate is not contained in the record of proceeding, the Form I-360 further shows that the petitioner married her lawful permanent resident spouse on July 22, 1992 at ██████████ New York. On May 12, 1999, a self-petition was filed by the petitioner claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, her permanent resident spouse during their marriage.

The record reflects that the petitioner was requested on July 8, 1999, on September 1, 1999, on January 18, 2000, and again on May 15, 2000, to submit additional evidence to establish that she has met the requirements of 8 C.F.R. 204.2(c)(1)(i)(D), (F), (G), and (H). The director listed examples of evidence she may submit to establish eligibility. Because the petitioner failed to respond to the director's requests, the petition was denied.

As evidence that the petitioner was the subject of extreme cruelty, the petitioner, on appeal, submits affidavits from three individuals attesting that the petitioner was the subject of extreme cruelty perpetrated by her spouse. The director, however, did not find this portion, under 8 C.F.R. 204.2(c)(1)(i)(E), to be lacking. No additional evidence is furnished by the petitioner, on appeal, to overcome the director's findings that she has failed to establish that she has resided in the United States with her lawful permanent resident spouse; that she is a person of good moral character; that she is a person whose removal would result in extreme hardship to herself, or to her child; and that she entered into the marriage to the lawful permanent resident in good faith pursuant to 8 C.F.R. 204.2(c)(1)(i)(D), (F), (G), and (H), respectively.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.