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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street, N.W.  
Washington, D.C. 20536



PUBLIC COPY

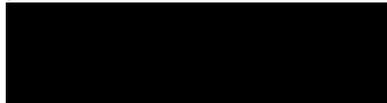
DEC 29 2003

FILE: [Redacted]  
EAC 02 105 52495

Office: Vermont Service Center

Date:

IN RE: Petitioner:  
Beneficiary:



APPLICATION: Petition for Special Immigrant Battered 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:



Identified to  
[Redacted]  
[Redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy M. Gomez  
Robert P. Wiemann, Director for  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner is a native and citizen of Iran who is seeking classification as a special immigrant 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 the battered spouse of a United States citizen.

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 pursuant to 8 C.F.R. § 204.2(c)(1)(i)(D); (2) is a person of good moral character pursuant to 8 C.F.R. § 204.2(c)(1)(i)(F); and (3) entered into the marriage to the citizen or lawful permanent resident in good faith pursuant to 8 C.F.R. § 204.2(c)(1)(i)(H). The director, therefore, denied the petition.

On appeal, counsel asserts that the Service (now CIS) erred in denying the petition on the ground of lack of moral character. Counsel further asserts that the petitioner entered into the marriage in good faith but that her husband mistreated her and left her. While counsel indicates that he is submitting a brief and/or evidence within 30 days, to date, no additional statement or evidence has been provided.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

*Summary dismissal.* An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Despite counsel's assertion, the record reflects that the petitioner was requested to submit police clearances to meet the criteria required to establish good moral character. She was informed that any clearances provided by name and date of birth searches must establish that the investigating agency was aware of all aliases she had used, including maiden name, if applicable. The director noted that the petitioner furnished a letter of clearance under the name of [REDACTED] however, the petitioner's passport and the English translation of her birth certificate listed her name as [REDACTED]. No police clearance was furnished under this name. Additionally, the petitioner failed to submit a brief and/or additional evidence within 30 days as stated on appeal.



Furthermore, the petitioner failed to address the findings of the director that the petitioner had failed to establish that she had resided in the United States with her citizen spouse. Nor did counsel identify specifically any erroneous conclusion of law or statement of fact for the appeal. Accordingly, the appeal will be summarily dismissed.

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.

**ORDER:** The appeal is dismissed.