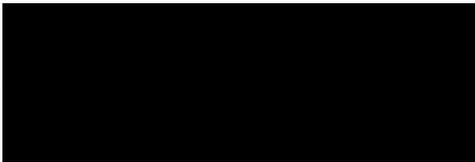


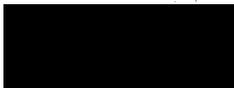


U.S. Citizenship  
and Immigration  
Services

BOA



FILE:



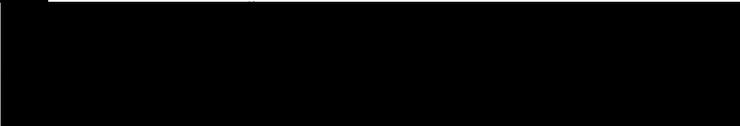
Office: VERMONT SERVICE CENTER

Date:

AUG 04 2004

IN RE:

Petitioner:  
Beneficiary:



PETITION: 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: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

*Cecilia Gomez for*

Robert P. Wiemann, Director  
Administrative Appeals Office

**PUBLIC COPY**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of privacy**

**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 dismissed.

The petitioner is a native and citizen of Mexico 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 submit additional evidence, as had been requested, to establish that she is a person of good moral character. The director, therefore, denied the petition.

On appeal, the applicant states that she did not submit the information earlier because she had been moving to different addresses due to financial problems, and she did not receive the notice; however, she is now stable and requests reconsideration. She submits additional evidence.

8 C.F.R. § 204.2(c)(1) states, in pertinent part, 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 record reflects that the petitioner last entered the United States in February 2000; however, her current immigration status or how she entered the United States was not shown. The petitioner married her United States citizen spouse on August 16, 1997, at Mesa, Arizona. On June 1, 2002, 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 U.S. citizen spouse during their marriage.

8 C.F.R. § 204.2(c)(1)(i)(F) requires the petitioner to establish that she is a person of good moral character. Pursuant to 8 C.F.R. § 204.2(c)(2)(v), primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued

criminal background check for each locality or State in the United States in which the self-petitioner has resided for six or more months during the three-year period immediately preceding the filing date of the petition. Self-petitioners who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign country in which he or she resided for six or more months during the three-year period immediately preceding the filing of the self petition.

The record reflects that the petitioner was requested on November 19, 2002, to submit evidence of her good moral character. Examples of evidence the petitioner may submit to establish good moral character under 8 C.F.R. § 204.2(c)(2)(v) were listed by the director in his request for additional evidence. Because the petitioner failed to comply with the request, the director denied the petition on April 30, 2003.

On appeal, the petitioner submits a letter of clearance from the Mesa Police Department in Arizona, dated May 8, 2003, indicating that a search of records was completed, and that the petitioner has no record of any arrest with the Department. She also submits statements from three individuals attesting to the petitioner's good moral character.

The Form I-360, Petition for Amerasian, Widow or Special Immigrant, filed on June 1, 2002, indicates that the petitioner resided [REDACTED] at that time. The petitioner listed this same address on her Form I-290B, Notice of Appeal, filed on May 15, 2003. While the petitioner, on appeal, furnished a May 8, 2003 letter of clearance from Mesa, Arizona, she neglected to submit either a state-issued criminal background check or a police clearance from Phoenix, Arizona, the city where she claimed to have been residing. Accordingly, the applicant has failed to establish eligibility for the benefit sought and to overcome the findings of the director pursuant to 8 C.F.R. § 204.2(c)(1)(i)(F).

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. The appeal will be dismissed.

**ORDER:** The appeal is dismissed.