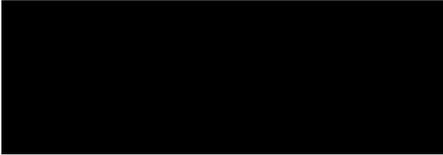


BA

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



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.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal 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 denied the petition after determining that the petitioner had failed to submit evidence, as had been requested, to establish eligibility for the benefit sought.

On appeal, the petitioner states that to the best of her knowledge, she did comply with the requested information within the time period given. She indicates that she is enclosing copies of evidence previously sent.

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 child¹; and
- (H) Entered into the marriage to the citizen or lawful permanent resident in good faith.

The Form I-360, Petition for Amerasian, Widow or Special Immigrant, shows that the petitioner claimed to have entered the United States without inspection during 1989. The petitioner married her United States citizen spouse

¹ On October 28, 2000, the President approved the enactment of the Violence Against Women Act, 2000, Pub. L. No. 106-386, Division B, 114 Stat. 1464, 1491 (2000). Section 1503(b) amends section 204(a)(1)(A)(iii) of the Act to enable an alien self-petitioner claiming to qualify for immigration as the battered spouse or child of a U.S. citizen to no longer be required to demonstrate that the self-petitioner's removal would impose extreme hardship on the self-petitioner or the self-petitioner's child. *Id.* section 1503(b), 114 Stat. at 1520-21.

on December 19, 1994, at San Francisco, California. On February 25, 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.

Because the evidence contained in the record did not establish the petitioner's eligibility for the benefit sought, on July 30, 2002, she was requested to submit evidence, including a police clearance, to establish that she is a person of good moral character pursuant to 8 C.F.R. § 204.2(c)(1)(i)(F). The petitioner was granted 60 days in which to present additional evidence, to withdraw the petition, to request a decision based on the evidence submitted, or to request additional time to respond. On August 12, 2002, the petitioner was granted an extension of 60 days from the date of the notice to submit the requested evidence. On November 18, 2002, the petitioner was again granted an additional extension of 60 days from the date of the notice to submit the requested evidence. Based on the petitioner's failure to respond, the director denied the petition.

While the petitioner claims that she did comply with the request for additional information, there is nothing in the record to show that the petitioner furnished the requested evidence to establish that she is a person of good moral character. Furthermore, on appeal, while the petitioner states that she is enclosing copies of evidence previously sent, the Form I-290B, Notice of Appeal, was not accompanied by any additional documentation.

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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.