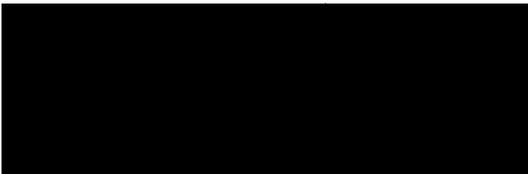




U.S. Citizenship
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Services

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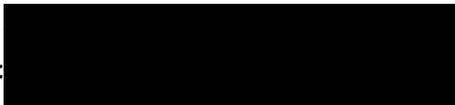
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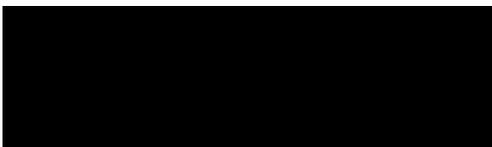
Petitioner:
Beneficiary:



AUG 12 2004

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:



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.

Elizabeth O'Brien
Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The preference visa petition was denied by the Acting 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 the Dominican Republic 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 acting director denied the petition, finding that the petitioner failed to establish that he entered into the marriage to the citizen in good faith.

On appeal, counsel for the petitioner submits one additional piece of evidence.

Section 204(a)(1)(A)(iii) of the Act provides, in pertinent part, that an alien who is the spouse of a United States citizen, who is a person of good moral character, who is eligible to be classified as an immediate relative, and who has resided with his or her spouse, may self-petition for immigrant classification if the alien demonstrates to the Attorney General that—

(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

The regulation at 8 C.F.R. § 204.2(c)(1)(i) states, in pertinent part, that:

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 . . . 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; [and]

* * *

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

The regulation at 8 C.F.R. § 204.2(c)(1)(ix) states, in part:

Good faith marriage. A spousal self-petition cannot be approved if the self-petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws.

According to the evidence on the record, the petitioner wed United States citizen [REDACTED] on April 4, 2001 in Yonkers, New York. The petitioner's spouse filed a Form I-130 petition on behalf of the petitioner. The petitioner and his wife were interviewed at the New York District Office on June 6, 2002, and were referred for a "Stokes" interview because it was determined that the petitioner did not provide convincing evidence of a marital union and a bona fide marriage. On February 28, 2003, 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, his U.S. citizen spouse during their marriage.

The regulation at 8 C.F.R. § 204.2(c)(i) requires the petitioner to show that he entered into the marriage to the citizen in good faith.

Because the petitioner furnished insufficient evidence to establish that he had entered into the marriage in good faith, the acting director requested the petitioner to submit additional evidence. The acting director listed evidence the petitioner could submit to establish that he married his spouse in good faith.

The acting director, in his decision, reviewed and discussed the evidence furnished by the petitioner, including evidence furnished in response to her request for additional evidence. The discussion will not be repeated here.

On appeal, counsel for the petitioner submits an affidavit written by the petitioner's landlord that states: "[the petitioner] and [his citizen wife] during the period of time that they were together resided at my apartment as tenants. Everything was stable until [the citizen spouse] abandoned [the petitioner], who still resides at my apartment, as a tenant."

In review, the evidence is insufficient to establish that the petitioner entered into the marriage in good faith. The evidence consists of the following:

- The petitioner's affidavits.
- A single joint tax return.
- A landlord's statement.
- Several envelopes addressed to the petitioner and his wife individually at the same address.

- Copies of photographs of the petitioner and his wife.

It is noted that the petitioner failed to submit evidence that he and his wife shared assets and liabilities other than a single federal income tax return. He failed to submit insurance policies in which he or his spouse is named as the beneficiary. He failed to submit joint bank statements. He failed to submit evidence of his courtship and wedding ceremony. No children were born of the marriage. The affidavits submitted are general. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The evidence on the record is insufficient to establish that the petitioner married his citizen spouse in good faith.

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.