

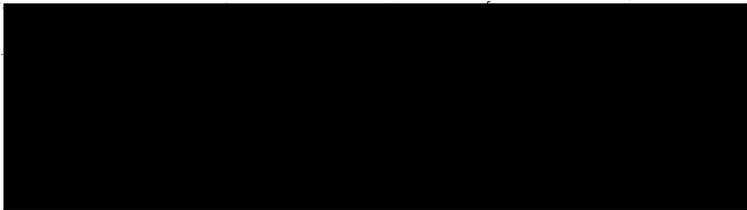
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U.S. Citizenship  
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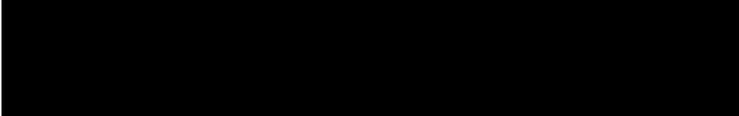
Office: VERMONT SERVICE CENTER

Date: **DEC 27 2004**

IN RE:

Petitioner:

Beneficiary:



PETITION:

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)

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**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 of the former Soviet Union and a citizen of the Slovak 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 permanent resident of the United States.

The director denied the petition, finding that the petitioner failed to establish that she entered into the marriage in good faith.

On appeal, the petitioner asserts that the director failed to take into account the fact that the petitioner attempted suicide after becoming disillusioned in the marriage.

Section 204(a)(1)(B)(ii) 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 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 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;

\* \* \*

(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.

The record reflects that the petitioner was [REDACTED] on March 2, 2001 in New York City. She resided with her spouse for approximately one month. The petitioner initiated divorce proceedings. The marriage was terminated on July 15, 2002. On January 14, 2003, the petitioner filed a Form I-360, 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.

Because the petitioner furnished insufficient evidence to establish that her husband was a lawful permanent resident, that she resided with her spouse, that she was abused or subjected to extreme cruelty by the spouse, is a person of good moral character and entered into the marriage in good faith, she was requested on October 23, 2003, to submit additional evidence. The director listed evidence she could submit to establish each requisite.

In her decision, the director determined that the petitioner had established all the eligibility requirements except for one, the bona fides of her marriage to the lawful permanent resident.

On appeal, the petitioner asserts the director failed to consider that the petitioner attempted to commit suicide after becoming disillusioned in her marriage and that she initiated divorce proceedings.

The evidence relating to the bona fides of the marriage consists of the petitioner's statements and a letter from JP Morgan Chase Bank indicating that the petitioner and her spouse maintained a business checking account since September 2001 and that the account was opened on October 25, 1999. The petitioner stated that she married her spouse four months after they met. The record of proceedings also contains an eviction notice issued to the petitioner and her spouse dated November 19, 2001.

In review, the evidence is insufficient to establish the bona fides of the marriage. The petitioner failed to submit insurance policies in which the petitioner or her spouse is named as the beneficiary. She failed to provide bank statements, tax records to establish that she and her spouse commingled assets and shared liabilities. She did not submit evidence of her courtship other than her own statements. She provided no documentation of her wedding ceremony. She provided no evidence of joint ownership of property. No children were born of the marriage. The petitioner stated that she became disillusioned with the marriage when she learned that her husband had a child from his first marriage.

Beyond the decision of the director, the petitioner failed to provide sufficient evidence that her marriage to a permanent resident was valid. She indicated on the Form I-360 that her husband had been previously married but she submitted no evidence that his first marriage was legally terminated. For this additional reason, the petition may not be approved.

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.