

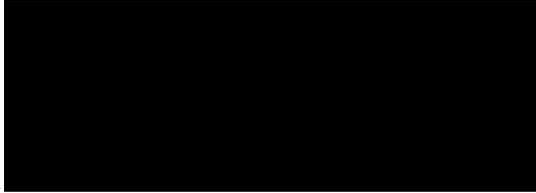
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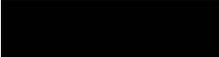
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U.S. Department of Homeland Security
Citizenship and Immigration Services

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

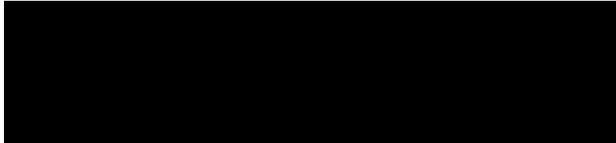


FILE: 
EAC 02 113 51023

Office: Vermont Service Center

Date: **JAN 05 2004**

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:



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 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 N. Gomez for
Robert P. Wiemann, Director
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 Russia 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) is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i) or § 1153(a)(2)(A), based on that relationship; (2) has resided in the United States with the citizen or lawful permanent resident spouse; (3) 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; (4) is a person of good moral character; and (5) entered into the marriage to the citizen or lawful permanent resident in good faith. The director, therefore, denied the petition.

On appeal, counsel asserts that insufficient weight was given by CIS to the domestic violence and abuse the petitioner experienced. This led to only a 6-day marriage and consequently less than a week to be able to get documentation of joint accounts to show good-faith marriage. Counsel states that removal to Russia would force great hardship on a mother and a minor, and that as a single mother, the petitioner has already endured too much hardship in struggling to support her family in the high-priced "Bay Area." He added that the petitioner is engaged to marry another American whose divorce is being finalized; therefore, they are seeking to avoid the hardship of deportation. While counsel indicates that he needs 33 days in which to submit a brief and/or evidence, 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 assertions on appeal, the record reflects that the petitioner was requested on July 3, 2002, to submit evidence to establish eligibility pursuant to 8 C.F.R. § 204.2(c)(1)(B), (D), (E), (F), and (H). The director listed examples of evidence the petitioner may submit to establish eligibility. The director noted that in response, the petitioner submitted a copy of her divorce decree showing that her marriage to the citizen spouse had been legally terminated. She requested additional time in order to gather the remaining evidence. On October 8, 2002, the petitioner was granted 60 days in order to submit the requested documents. Because there had been no response, the director denied the petition on February 28, 2003.

The petitioner, on appeal, has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Nor did the petitioner submit a brief and/or additional evidence within 33 days as stated on appeal. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.