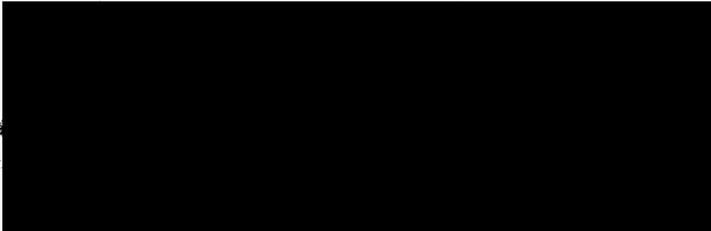


BA

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



U.S. Citizenship
and Immigration
Services



FILE:



EAC 03 148 53126

Office: VERMONT SERVICE CENTER

Date:

NOV 03 2004

IN RE:

Petitioner:

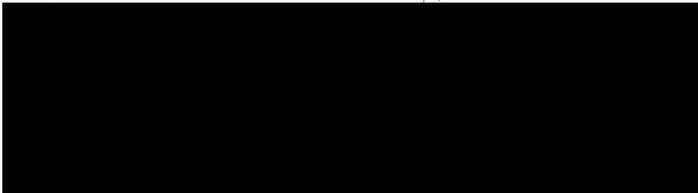


Beneficiary:

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:



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.

Mari Pluss

Robert P. Wiemann, Director
Administrative Appeals Office

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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 (AAO) 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, finding that the petitioner had failed to establish that she entered into the marriage in good faith.

On appeal, counsel submits a brief and additional 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 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 wed [REDACTED] a U.S. citizen on December 15, 2002 in Minneapolis, Minnesota. According to the petitioner, she met her spouse in July 2002, he moved into her apartment in November 2002, and they separated in February 2003. The petitioner filed a Form I-360 on April 1, 2003, 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.

The petitioner initially submitted the following evidence:

- The petitioner's affidavit outlining how she met her spouse and the events that led to their divorce.
- Copies of photographs of the petitioner and her husband.
- A letter from the petitioner's spouse dated February 3, 2003 and addressed to "a todo quien pueda interesar" that he is "crazy in love" with the petitioner.
- An unsigned and undated letter ostensibly from the petitioner's spouse to the petitioner.
- A marriage certificate.
- Affidavits of three friends of the petitioner.

Because the petitioner furnished insufficient evidence to establish that she had resided with her spouse and entered into the marriage in good faith, the director requested additional evidence. The director listed evidence the petitioner could submit to establish that she had resided with her spouse and that she entered into the marriage in good faith. In response to the request for additional evidence, counsel for the petitioner submitted the following:

- A postcard advertisement addressed to the petitioner and her spouse at 2525 Grand Avenue South, Apt. 303, Minneapolis, Minnesota from a company called WeBuyHomesAsIs.com.
- Affidavits of four friends of the petitioner stating that the petitioner and her

spouse resided together.

- Copies of notices indicating that her husband paid restitution for the damage he did to her personal property.
- Copy of a September 17, 2003 Notice of Entry of Judgment in the petitioner and her husband's divorce proceedings indicating that her spouse initiated divorce proceedings.
- A copy of a criminal booking entry showing that the petitioner's husband stated that he was married and had three dependents when he was booked on July 31, 2003.

In review, the evidence is insufficient to establish that the petitioner married her citizen spouse in good faith. It is noted that the petitioner failed to submit insurance policies in which she or her husband is named as the beneficiary. She failed to submit bank statements, tax records and other documents that show she and her husband shared accounts. She submitted no evidence of their wedding ceremony or of joint ownership of property. There is no evidence that they commingled their assets or shared liabilities during their marriage.

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.