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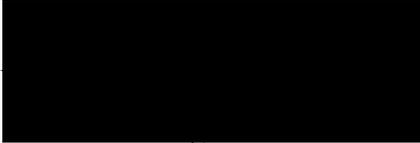
U.S. Department of Homeland Security  
20 Mass. Ave. N.W., Room A3042  
Washington, DC 20529

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**U.S. Citizenship  
and Immigration  
Services**

B9



FILE: [REDACTED]  
EAC 03 034 52692

Office: VERMONT SERVICE CENTER

Date: NOV 22 2004

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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, 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 (AAO) on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of Nigeria 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 is eligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. The director denied the petition, finding that the petitioner failed to establish that she is the spouse of a citizen or lawful permanent resident of the United States and is a person of good moral character.

On appeal, the petitioner submits her own statement with evidence previously submitted. Although a Notice of Entry of Appearance as Attorney or Representative (Form G-28) has been submitted by Liberty Immigration and Citizenship Service, Inc., the organization is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the petitioner. Therefore, this decision will be furnished to the petitioner only.

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.

According to the evidence on the record, the petitioner wed [REDACTED] on May 4, 1977 in Lagos, Nigeria. She obtained a Decree Nisi on November 6, 1996. The evidence further indicates that the petitioner wed [REDACTED] a United States citizen, on September 25, 1997 in Houston, Texas. The petitioner's citizen spouse filed a Form I-130 petition on behalf of the petitioner. The district director denied the Form I-130 petition due to abandonment. On January 22, 2002, the petitioner filed a self-petition 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 petitioner furnished insufficient evidence to establish that [REDACTED] is a citizen, that she resided with her citizen spouse, married him in good faith, and that she is a person of good moral character, the director requested additional evidence. The director listed evidence the petitioner could submit to establish each requirement.

The director, in her 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, the petitioner "resubmits" previously provided documentation and a new statement.

In review, the evidence is insufficient to establish that the petitioner was the spouse of a citizen or lawful permanent resident of the United States and is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship. As evidence that she had terminated her marriage to [REDACTED] prior to marrying the U.S. citizen spouse, the petitioner submitted a copy of a Decree Nisi and a Certificate of Decree Nisi Having Become Absolute. According to Department of State materials, the Decree Nisi and Certificate of Decree Nisi Having Become Absolute are steps in the divorce process, but not indicative of a final divorce. On appeal, the petitioner resubmits the same documentation and asserts that her divorce is final. 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 director denied the petition, in part, finding that the petitioner had failed to establish that she is a person of good moral character. The petitioner initially failed to submit proof to establish her good moral character. In a request for additional evidence, the director requested that the petitioner obtain and submit police clearances from each place she had resided for at least six months during the 3-year period before the filing of the Form I-360 on November 14, 2002. The director indicated that the clearances must be researched by all names she had used. In response, the petitioner submitted a fingerprint clearance from the State of New Jersey. The evidence on the record indicates that the petitioner resided in Texas as recently as 2001 yet she failed to submit a police clearance from Texas. The evidence is insufficient to establish that the petitioner is a person of good moral character.

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.