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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE:



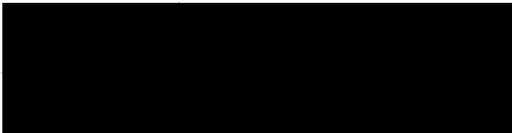
Office: VERMONT SERVICE CENTER

Date:

EAC 02 191 53085

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 Plummer

R Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center, denied the preference visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of Panama 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 failed to establish that she had entered into the marriage to the citizen in good faith.

On appeal, counsel for the petitioner submits a brief, additional evidence and copies of the record of proceeding.

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.

The record reflects that the petitioner last entered the United States as a B-2 nonimmigrant visitor on August 13, 1999. According to the evidence on the record, the petitioner wed United States citizen [REDACTED] on November 19, 1999 in Tennessee. The petitioner's spouse filed a Form I-130 petition on the petitioner's behalf on April 3, 2000. The district director denied the Form I-130 petition due to abandonment. The district director denied a concurrently filed Form I-485 application to register permanent residence or adjust status on August 21, 2001. The petitioner initiated divorce proceedings. The petitioner's marriage to the U.S. citizen was terminated on March 19, 2002. On May 11, 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. On March 6, 2003, the petitioner was placed in removal proceedings.

The regulation at 8 C.F.R. § 204.2(c)(1)(i) requires the petitioner to show that she has resided with her citizen spouse, is a person of good moral character; and entered into the marriage to the citizen in good faith.

Because the petitioner furnished insufficient evidence to establish that she entered into the marriage in good faith, is a person of good moral character and resided with her citizen spouse, the director asked her to submit additional evidence (RFE). The director listed evidence the petitioner could submit to establish that she had resided with her spouse, married her spouse in good faith, and that she is a person of good moral character.

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, counsel for the petitioner submits a brief and additional evidence. Counsel asserts that the petitioner was hampered in gathering documentation to establish the bona fides of her marriage due to her mistrust of men and authority figures coupled with a language barrier.

The director determined and the AAO concurs that the petitioner failed to establish that she had entered into the marriage in good faith, as required by 8 C.F.R. § 204.2(c)(1)(i)(H). In a request for additional evidence, the director listed the types of evidence that would show that the petitioner had married her husband in good faith. The petitioner provided CIS with her own statements, letters of the petitioner and her spouse, and letters of friends. The letters all state that the letters' authors were aware of the petitioner's marriage to the U.S. citizen and that they resided together. The petitioner also submitted photographs of herself with her stepdaughters, and with her spouse. She submitted a greeting card from her spouse, professing his love for her.

It is noted that the petitioner failed to submit insurance policies listing the petitioner or her spouse as the beneficiary. She submitted a lease rental dated April 3, 2000, which she and her spouse had signed. She failed to submit any financial documents indicating that she shared accounts with her spouse. She provided scant evidence of her courtship and wedding ceremony. She married her citizen spouse three months after she entered the United States. She failed to submit evidence of joint ownership of property. No children were born of the marriage. The letters submitted lack sufficient specificity to be given great weight. The petitioner submitted only one item, a letter from the Social Security Administration, which was addressed to the petitioner at the marital address. The evidence on the record is insufficient to establish that the petitioner married her 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.