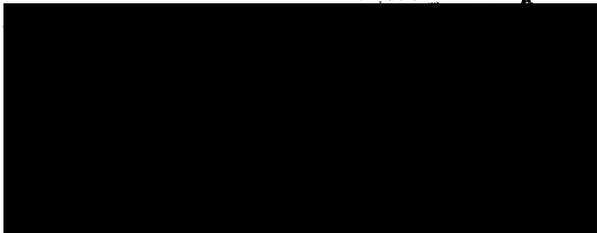


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invasion of personal privacy



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FEB 14 2005

FILE: 
EAC 03 140 54269

Office: VERMONT SERVICE CENTER

Date:

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:

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.

Mari Johnson

 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 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 had entered into her marriage in good faith.

On appeal, the petitioner submits 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.

According to the evidence on the record, the petitioner wed her citizen spouse, [REDACTED] on January 24, 1999 in Goldthwaite, Texas. The petitioner filed a Form I-360 on August 1, 2002, 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 director denied the petition on August 22, 2003.¹ The petitioner filed the instant Form I-360 petition on March 27, 2003.

Because the record contained insufficient evidence that the petitioner had resided with her spouse, is a person of good moral character and entered into the marriage in good faith, on March 24, 2004, the director requested additional evidence. The director specifically listed the type of evidence the petitioner could submit to establish her eligibility for this visa classification. The petitioner responded to the request for additional evidence. On August 26, 2004, the director denied the petition, finding that the petitioner had failed to establish that she entered into the marriage in good faith.

The evidence is insufficient to establish that the petitioner wed her citizen spouse in good faith. The evidence consists of the following:

- The petitioner's statement dated April 17, 2004.
- The petitioner's supplemental statement submitted on appeal.
- A medical bill dated October 31, 2002 addressed to the petitioner alone.
- A dish network bill addressed to the spouse alone dated October 16, 2001.
- An electric bill addressed to the spouse alone dated January 5, 2000.
- Copies of federal income tax returns filed by the petitioner's spouse as head of household in the years 1999 and 2000.
- A notice of eligibility for food stamps addressed to the petitioner in care of her spouse

¹ EAC 02 256 53225.

dated October 27, 1999.

- A notice of ineligibility for food stamps addressed to the petitioner in care of her spouse dated January 3, 2001.
- A Medicaid identification card mailed to the petitioner in care of her spouse dated April 21, 2002.
- A letter from a church deacon dated September 15, 2004, stating that the petitioner and her spouse attended church together in the years 1999-2002.

There is no evidence that the petitioner and her spouse commingled their assets or shared liabilities during their marriage. Every bill submitted was addressed to the petitioner or her spouse individually. The petitioner's spouse filed income tax returns as the head of household rather than as married. The petitioner failed to submit evidence of insurance policies in which she or her spouse was named as the beneficiary. She failed to submit bank statements showing that she and her husband shared accounts. She submitted no evidence of joint ownership of property. No children were born of the marriage. She provided scant information about her courtship, wedding, and married life. Accordingly, the petitioner has not established that she entered into the marriage in good faith. For this 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.