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



U.S. Citizenship and Immigration Services

PUBLIC COPY



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FILE:



EAC 03 069 53413

Office: VERMONT SERVICE CENTER

Date: FEB 14 2005

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 Johnson

S Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center, denied the preference visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion to reconsider. The motion will be granted and the prior decisions of the director and the AAO will be affirmed.

The petitioner is a native and citizen of Ghana 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 resided with her citizen spouse or that she entered into the marriage to the citizen in good faith. The AAO affirmed the director's decision. On motion, counsel for the petitioner erroneously asserts that the petition was denied on the sole basis that the petitioner failed to establish the bona fides of her marriage. It is clear from the record that the director denied the petition and the AAO dismissed the appeal for two reasons: namely, that the petitioner had failed to establish that she had resided with her husband and that she had entered into the marriage in good faith.

On motion, counsel for the petitioner asserts that the bona fides of a marriage may be proven by affidavits given by individuals who had personal knowledge of that relationship, citing *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983). Counsel failed to address the issue of joint residence on motion.

The decisions of the director and the AAO are not inconsistent with the BIA decision in *Matter of Laureano*. The bona fides of a marriage may be proven by affidavits given by individuals with personal knowledge of the relationship. In the instant case, the petitioner submitted affidavits of three immediate relatives, her mother, sister and brother. She also submitted an affidavit of a family friend and her own. The affidavits provide scant detail about the petitioner's courtship, marriage celebration, and marital relationship. 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). Accordingly, these affidavits do not establish the bona fides of the 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 petition will be denied.

ORDER: The prior decisions of the director and the AAO are affirmed.