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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: MAR 17 2005

EAC 03 069 55274

IN RE:

Petitioner:

[REDACTED]

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:

[REDACTED]

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*

for 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 of Azerbaijan and a citizen of Ukraine 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.

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 record reflects that the petitioner was married and divorced prior to her first entry into the United States. The record further reflects that the petitioner was the intended beneficiary of three different Form I-129F petitions for fiancées in a three-year period. The evidence indicates that the petitioner last entered the United States as a K-1 fiancée on July 3, 2002. She wed U.S. citizen [REDACTED] on July 24, 2002 in Harris County, Texas. The petitioner indicated that she lived with [REDACTED] from February through August 2002. The evidence shows that the petitioner's marriage to [REDACTED] was legally terminated on October 28, 2002 in Harris County, Texas. On December 30, 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.

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, the director asked her to submit additional evidence. The director listed evidence the petitioner could submit to establish that she married her spouse in good faith. In response to the request for additional evidence (RFE), the petitioner requested a sixty-day extension. On January 30, 2004, the director granted the petitioner a sixty-day extension to respond to the RFE.

The director, in her decision, reviewed and discussed the evidence furnished by the petitioner, including evidence furnished in response to her RFE. The discussion will not be repeated here.

On appeal, counsel for the petitioner submits a brief and asserts that the petitioner is legally entitled to receive a preference immigrant visa. Counsel further asserts that there is sufficient evidence on the record to establish the bona fides of the marriage.

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 Citizenship and Immigration Services (CIS) with the following evidence relating to the bona fides of her marriage:

- The petitioner's affidavits dated December 21, 2002 and March 12, 2004.
- Phone bills documenting calls between the U.S. and the Ukraine.
- A letter written by [REDACTED] a former co-worker of the petitioner, dated October 21, 2002, which states that the petitioner returned from a trip with her fiancé "sun tanned, look[ing] great and happy."

- An affidavit of the petitioner's mother, [REDACTED], that describes the petitioner's courtship with the allegedly abusive U.S. citizen.
- A letter written by [REDACTED] the petitioner's former employer, stating that the petitioner introduced [REDACTED] him as her future husband.
- An affidavit of [REDACTED] an "old acquaintance" of the petitioner who worked for the petitioner and her citizen spouse as a driver in the Ukraine.
- An affidavit of the petitioner's sister [REDACTED] that states that the petitioner married her citizen spouse "with good intention."
- An affidavit of [REDACTED] that speaks to the bona fides of the petitioner's relationship to one of her former suitors who filed a Form I-129 on the petitioner's behalf.
- Copies of photographs of the petitioner and her citizen spouse together.
- A letter signed by [REDACTED] stating that he rented an apartment to [REDACTED] from March to June because a friend [REDACTED] from the USA had come to her."

The evidence on the record is insufficient to establish that the petitioner married her citizen spouse in good faith. It is noted that the petitioner made initial contact with her prospective citizen spouse on the Internet in December 2001. They met in person on February 14, 2002 and four days later became engaged to wed. The petitioner was engaged to three different men in a three-year period. She became engaged to her spouse, four days after meeting him, and had a short cohabitation period with her citizen spouse. There is a 19 year age differential between the petitioner and her citizen spouse. She provided no evidence that she and her spouse commingled assets or shared financial responsibilities. Photographs have no probative value. Accordingly, the petitioner has submitted insufficient evidence to establish that she entered into the marriage 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.