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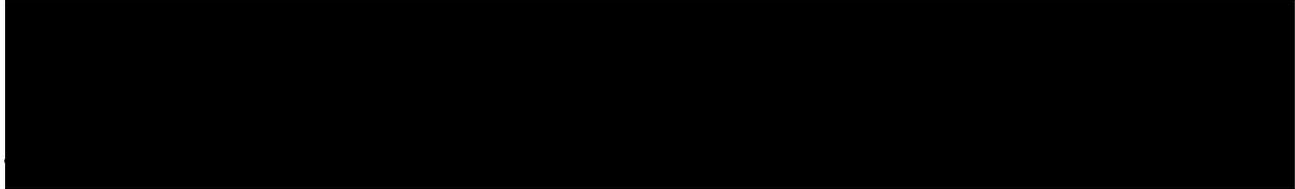
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Room A3042  
Washington, DC 20529



U.S. Citizenship  
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FILE: [REDACTED]  
EAC 03 106 50353

Office: VERMONT SERVICE CENTER

Date: MAR 18 2008

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:



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

The petitioner is a native of the former Soviet Union and 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 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 K-1 fiancée on July 11, 2002. According to the evidence on the record, the petitioner wed United States citizen [REDACTED] on October 7, 2002 in Monroe County, Florida. The petitioner filed a Form I-485 application to register permanent residence or adjust status on November 19, 2002. On January 13, 2003, the petitioner's citizen spouse withdrew his petition and affidavit of support. On March 6, 2003, the district director denied the Form I-485 application.

On February 15, 2003, 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 on December 22, 2003. The director listed evidence the petitioner could submit to establish that she married her spouse in good faith. The petitioner requested a 60-day extension on January 2, 2004. On February 18, 2004, the director granted the petitioner a 60-day extension.

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 asserts that the evidence shows that the petitioner entered into her marriage in good faith and not for the purpose of procuring an immigration benefit.

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). The evidence on the record is insufficient to establish that the petitioner married her citizen spouse in good faith.

The evidence on the record is as follows:

- Photographs of the petitioner's marriage ceremony.

- Pictures of the petitioner's husband alone and with the petitioner.
- An affidavit written by the petitioner's mother dated March 18, 2004.
- Copies of letters that the petitioner's husband sent to her.
- Copies of letters that the petitioner sent to her husband.
- The petitioner's affidavit.

It is noted that the petitioner indicated that she resided in Key West, Florida with her mother while her husband was working in Miami, Florida, approximately 160 miles and a three and one-half hour drive away. It is also noted that the petitioner and her citizen spouse separated within six months of their marriage. The petitioner failed to submit a joint lease or rental agreement. She failed to submit copies of insurance policies in which the petitioner or her spouse is named as the beneficiary. She failed to submit copies of bank statements, tax records and other financial documents showing that she shared assets and responsibilities with her spouse. She failed to submit evidence of joint ownership of property. No children were born of the marriage. The evidence on the record indicates that the petitioner and her spouse had a very short courtship. She introduced herself to her future spouse in a letter dated February 14, 2001. Three weeks later, she wrote to the future spouse of her "eternal love." The prospective spouse filed a Form I-129F for a K-1 visa on the petitioner's behalf on April 24, 2001. Photographs have little evidentiary value. Affidavits of the petitioner and her mother are insufficient evidence to establish the bona fides of the marriage. Accordingly, the petitioner has submitted insufficient evidence to establish that she 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.