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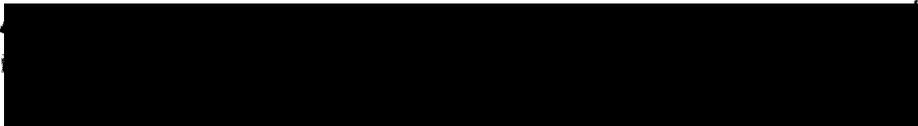
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Room A3042
Washington, DC 20529



U.S. Citizenship
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FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: MAY 17 2005
EAC 03 121 53568

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:

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 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 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 citizen of the United States.

The director denied the petition, finding that the petitioner failed to establish that she has a qualifying relationship with a U.S. citizen or lawful permanent resident and that she is eligible for immigration classification based on a qualifying relationship with a U.S. citizen or lawful permanent resident.¹ The director further denied the petition, finding that the petitioner failed to submit evidence to establish that she is a person of good moral character.

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;

* * *

(D) Has resided . . . with the citizen or lawful permanent resident spouse;

¹ The evidence on the record establishes that the petitioner wed a U.S. citizen. A copy of the petitioner's spouse's naturalization certificate and a partial copy of his passport are in the record of proceedings.

(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.

According to the evidence on the record, the petitioner wed United States citizen [REDACTED] on November 25, 1998. The petitioner's spouse filed a Form I-130 on the petitioner's behalf on November 6, 2000. The petitioner and her spouse quit residing together on January 5, 2001. The Form I-130 petition was approved on July 18, 2001. The parties divorced on July 20, 2001. On March 8, 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 citizen spouse during their marriage.

Because the petitioner furnished insufficient evidence to establish that she had been abused by, or the subject of extreme cruelty perpetrated by her citizen spouse, and that she is a person of good moral character, the director asked her to submit additional evidence (RFE). The director also requested a copy of the petitioner's final divorce decree. The petitioner requested a 60-day extension in which to respond to the request for additional evidence. The director granted the petitioner's request. The director listed evidence the petitioner could submit to establish battery or extreme mental cruelty, 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.

In review, the petitioner established that she had a qualifying relationship with a U.S. citizen and that she is eligible for immigration classification based on a qualifying relationship.

The remaining issue in this proceeding is whether the petitioner has established that she is a person of good moral character.

The regulation at 8 C.F.R. § 204.2(c)(1)(i)(F) requires the petitioner to establish that she is a person of good moral character. Pursuant to 8 C.F.R. § 204.2(c)(2)(v), primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check for each locality or state in the United States in which the self-petitioner has resided for six or more months during the three-year period immediately preceding the filing of the petition. Self-petitioners who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign

country in which he or she resided for six or more months during the 3-year period immediately preceding the filing of the self petition.

On appeal, the petitioner submits recommendation letters that indicate that the petitioner is a person of good moral character. Letters are insufficient evidence of good moral character. In her RFE, the director instructed the petitioner to submit her own affidavit supported by police clearances or records from each place she resided for at least 6 months during the 3-year period before filing the petition. The petitioner failed to submit police clearances to Citizenship and Immigration Services.

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.