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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**

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BA

FILE: [Redacted]
EAC 03 188 51256

Office: VERMONT SERVICE CENTER

Date: **MAY 20 2005**

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.

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 failed to establish that she has been battered or the subject of extreme cruelty perpetrated by her U.S. citizen spouse.

The petitioner submits a timely appeal and indicates that she needs 90 days to submit a brief and/or evidence. The extension for good cause can only be granted if the petitioner shows good cause. The petitioner has failed to demonstrate the good cause necessary to be entitled to such an extension.

In March 2005, the petitioner submitted another statement, a letter from a friend, and a letter from a women's counselor at Life Span, a not-for-profit agency that provides counseling and legal services to victims of domestic violence and their children. The regulations do not allow a petitioner an open-ended or indefinite period in which to supplement an appeal once it has been filed. Regardless, as will be discussed, the submission does not overcome the director's stated grounds for denial.

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;

The regulation at 8 C.F.R. § 204.2(c)(1)(i)(E) requires the petitioner to establish that she 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.

The qualifying abuse must have been sufficiently aggravated to have reached the level of "battery or extreme cruelty." 8 C.F.R. § 204.2(c)(1)(vi).

Because the petitioner furnished insufficient evidence to establish eligibility, she was requested on July 22, 2004 to submit additional evidence. The director specifically listed evidence the petitioner could submit to establish battery or extreme mental cruelty.

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

On appeal, the petitioner submits a new statement describing the purported abuse suffered during her marriage. The petitioner states that she believes her spouse was using drugs, that he did not work, and that she was responsible for paying the bills. The petitioner also states that her spouse would call her names such as "hippo" and "dumb."

The petitioner's friend, [REDACTED] submits a second letter to supplement the letter submitted in response to the director's request for evidence. In her second letter [REDACTED] states the petitioner told her that the petitioner's citizen spouse called her names and used drugs.

The petitioner also submits a letter from [REDACTED] a women's counselor. In her letter, [REDACTED] does not indicate that she ever witnessed any of the alleged abuse indicated by the petitioner and relates a description of the petitioner's marriage as described by the petitioner to [REDACTED]

In review, the petitioner has failed to establish that the mistreatment she received rises to the level of "extreme cruelty."

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.

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U.S. Citizenship
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FILE: [redacted] OFFICE: VERMONT SERVICE CENTER DATE: **MAY 20 2005**
EAC 03 039 53431

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

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Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office