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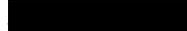
U.S. Citizenship
and Immigration
Services

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FILE:


EAC 03 178 53590

Office: VERMONT SERVICE CENTER

Date: NOV 10 2005

IN RE:

Petitioner: 

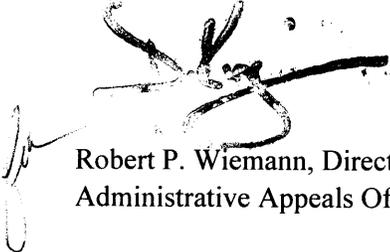
PETITION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(ii)

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 (Director), Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a native and citizen of Guyana who is seeking classification as a special immigrant pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii), as the battered spouse of a lawful permanent resident of the United States.

The record reflects that the petitioner married lawful permanent resident Bodhe Narine on October 14, 1992 in Canada. The instant Form I-360 petition was filed by the petitioner on May 27, 2003. On May 13, 2004, the director requested further evidence to demonstrate that the petitioner resided with her spouse, that she entered into the marriage in good faith, and that she is a person of good moral character. Using an updated address for the petitioner, the director resent the request on June 24, 2004. The petitioner responded to the request for evidence on June 28, 2004. The director denied the petition on November 4, 2004, after reviewing and discussing the evidence submitted by the petitioner and finding that the petitioner failed to establish that she entered the marriage in good faith and that she is a person of good moral character. The petitioner filed a timely appeal, dated December 2, 2005.

On the Form I-290B, Notice of Appeal, the petitioner indicates that she would be sending a brief and/or evidence to the AAO within 30 days. To date, more than eleven months after the appeal was filed, no further evidence has been submitted. The record, therefore, is considered complete as it now stands.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Rather than identifying any error on the part of the director, the petitioner attempts to explain the reason she lacks the requested evidence. As it relates to the director's finding regarding whether the petitioner entered her marriage in good faith, the petitioner states, "everything was in [her spouse's] name for the 10 years of marriage, including mortgages, credit cards, tax returns, etc." We note that tax returns for married couples can be filed as married filed jointly or married filed separately. It is simply not credible for the petitioner to state that she does not have access to evidence of her tax returns because they were in her spouse's name. For a marriage which lasted 10 years, we would expect there to be ample evidence to support the claim of a good faith marriage, such as car or health insurance information, joint checking or savings accounts or other evidence to show a commingling of assets or liabilities.

As it relates to the issue of her good moral character and failure to submit an affidavit and required police clearances, the petitioner states:

I tried repeatedly to get a police clearance but was pushed between Trenton and my local police department. Trenton's Office told me to get my fingerprints done at my local Police Dept. and they will then process the police clearance. Detective [REDACTED] sent me to go

[sic] Commerce St. Newark, N.J. From this point I was sent to [REDACTED] where I was sent back to Trenton. This happened more than once.

The petitioner submits a letter from the Aberdeen Police Department dated March 10, 2004, indicating that for immigration purposes, the petitioner should go to Newark for fingerprinting and a record check. The petitioner does not provide any documentation to show that she attempted to get fingerprinted in Newark as instructed or other evidence to corroborate her statement that she also tried to get fingerprinted in Trenton.

Even if the petitioner had submitted additional evidence on appeal, in instances where a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. If the petitioner had wanted the submitted evidence to be considered, she should have submitted the documents in response to the director's request for evidence. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). Therefore, even if the petitioner had submitted additional evidence on appeal, the AAO need not and would not consider the sufficiency of the evidence submitted on appeal.

Regardless, in this instance, the petitioner has failed to specifically identify an erroneous conclusion of law or a statement of fact in this proceeding. The petitioner's general explanations for her lack of supporting documentation is not sufficient to meet the requirement of the regulation.

Inasmuch as the petitioner has failed to specifically identify any erroneous conclusion of law or statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is dismissed.