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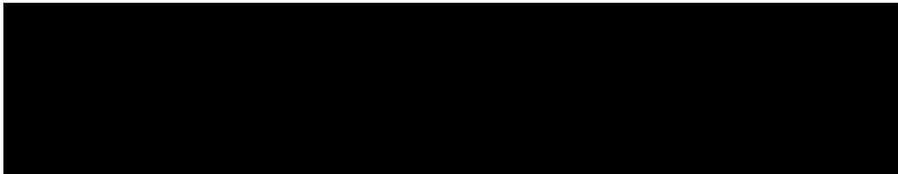
EAC 03 188 51378

Office: VERMONT SERVICE CENTER

Date: SEP 23 2005

IN RE:

Petitioner:



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:



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

S 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 summarily dismissed.

The petitioner is a citizen of Russia 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 had failed to establish that she is a person of good moral character as defined by the Act. On appeal, counsel for the petitioner indicated that he would submit additional evidence within 120 days of filing the appeal. More than nine months have year has lapsed since the appeal was filed and nothing more has been submitted for the record.

The record of proceedings indicates that the petitioner entered the United States as a K-1 fiancée on December 7, 2001. The petitioner wed U.S. citizen [REDACTED] on December 20, 2001 in Santa Rosa, California. The petitioner's spouse filed a Form I-864 affidavit of support on her behalf. The petitioner filed a Form I-485 application to register permanent residence or adjust status on January 23, 2002. The petitioner's spouse withdrew his Form I-864 on April 4, 2003. The district director denied the petitioner's Form I-485 application on May 15, 2003. On June 6, 2003, the petitioner filed a Form I-360 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.

Finding the evidence insufficient, the director issued a request for additional evidence and specifically stated that the petitioner should submit her own affidavit supported by police clearances or records from each place she had resided for at least 6 months during the 3-year period prior to filing the Form I-360 petition.

In his decision dated November 2, 2004, the director wrote:

As proof to satisfy [the good moral character] requirement, you submitted a court document from Sonoma County Court. Although, the court document indicated that you have no record, police records and/or clearances are required to establish good moral character. Additionally, the record showed that you entered the United States in December 2001 and filed the Form I-360 on June 9, 2003. Evidence of good moral character is required for the three-year period prior to filing this petition. As . . . you resided [in Russia] during the three-year period before filing this petition, evidence of your good moral character is required from Russia. Therefore, on May 12, 2004, [Citizenship and Immigration Services] requested additional evidence of your good moral character.

In response you submitted a letter from your attorney. The letter indicates that you have no other information regarding your good moral character. Your attorney stated that to the best of her knowledge you have never been arrested or had trouble with the law.

The director determined and the AAO concurs that the assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

On appeal, the petitioner, through counsel states that she “wishes to address [the issue of good moral character] on appeal.” Counsel indicated that he needed 120 days in which to submit additional evidence. He failed to submit such evidence. Further, where, as here, 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. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

The petitioner failed to address specifically the grounds for denial set forth in the decision of the director.

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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.