



U.S. Citizenship  
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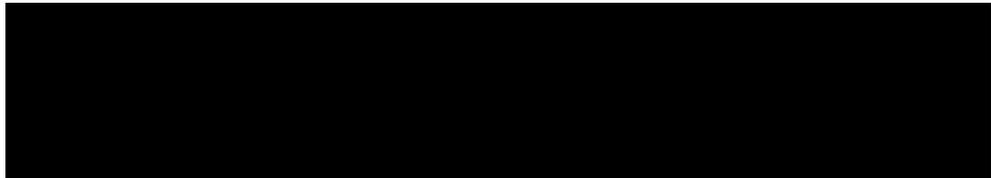


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Office: VERMONT SERVICE CENTER

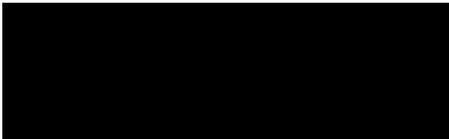
Date: **SEP 23 2005**

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*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The 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 Indonesia 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 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 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 B-2 nonimmigrant visitor on February 17, 2000 with authorization to remain in the United States until August 16, 2000. According to the evidence on the record, the petitioner wed United States citizen [REDACTED] 27 years senior to the petitioner in age, on January 29, 2002 in Los Angeles, California. The petitioner was placed in removal proceedings on August 6, 2002. On August 21, 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 petitioner is scheduled for an immigration court proceeding on September 20, 2005.

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. The petitioner initially failed to submit any evidence to establish that she entered into the marriage in good faith.

Because the petitioner furnished insufficient evidence to establish that she had legally terminated her prior marriage; that her allegedly abusive spouse is a U.S. citizen; that she entered into the marriage in good faith; had resided with her spouse; is a person of good moral character; and that she had been abused by, or the subject of extreme cruelty perpetrated by, her citizen spouse, the director asked her to submit additional evidence. The director listed evidence the petitioner could submit to establish battery or extreme mental cruelty, that she had resided with her spouse, that she married her spouse in good faith, and that she is a person of good moral character.

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

In response to the request for evidence, the petitioner submitted the following evidence:

- Her own affidavit dated September 27, 2004.
- Affidavit of [REDACTED] BSW, Women's Shelter Advocate, dated October 7, 2002.
- Letter dated October 6, 2002 from [REDACTED]
- Letter dated June 2, 2003 from Rev. [REDACTED]
- Letter dated September 15, 2004 from Rev. [REDACTED]
- Undated letter from Inge Hiekel.

In her affidavit, the petitioner stated that she met [REDACTED] in June 2000 in California where she was working and they commenced a "long distance relationship." The evidence on the record indicates that the

petitioner was still married to her first husband when she met [REDACTED]. She terminated her first marriage on June 29, 2001. The petitioner said she moved to Alaska to live with [REDACTED] after they wed in January 2002. The petitioner failed to provide further details about her courtship. She provided no details about her marriage ceremony or celebration. The social worker indicated in her affidavit that the petitioner's citizen spouse pursued the petitioner and was eager to marry her. The letters written by clergy or laypeople indicate that the petitioner sought to repair her marriage.

On appeal, counsel for the petitioner submits additional evidence, including the following:

- A letter dated January 18, 2005, written by [REDACTED] lay minister at the Beautiful Savior Lutheran Church in Anchorage, Alaska.
- A letter dated January 20, 2005 written by [REDACTED]
- A letter written by [REDACTED] dated January 22, 2005.
- Two postmarked envelopes addressed to the petitioner at [REDACTED]
- A 2001 income tax form indicating that the petitioner's citizen spouse's business address is [REDACTED]

[REDACTED] wrote that he is convinced that the petitioner was wed to [REDACTED] and that they lived together. [REDACTED] and [REDACTED] friends of the petitioner, wrote that they visited the petitioner in the house she shared with [REDACTED]. The postmarked envelopes and the income tax form indicate that the petitioner received mail at her citizen spouse's place of business. It is noted that the petitioner failed to submit any evidence indicating that she or her spouse were named as the beneficiary of insurance policies, or that she and her spouse held property jointly, such as bank accounts, real estate, or cars. She provided no evidence to establish that she and her spouse shared financial responsibilities such as utility bills or jointly filed tax returns. No children were born of the marriage. There is a 27-year differential between the petitioner and her spouse's ages. The evidence on the record is insufficient to establish that the petitioner 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.