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U.S. Citizenship
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Services

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FILE: [REDACTED]
EAC 04 186 53170

Office: VERMONT SERVICE CENTER

Date: JAN 11 2006

IN RE: Petitioner: [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 Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a native and citizen of Egypt 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 record reflects that the petitioner married United States citizen [REDACTED] on March 11, 1996 in Bayonne, New Jersey. The petitioner's spouse filed a Form I-130 petition in the petitioner's behalf on June 19, 1996. The petitioner concurrently filed a Form I-485 on that same date. Although the Form I-130 was approved on June 15, 1998, the Form I-485 was denied on June 21, 2001 due to the petitioner's failure to appeal for several requested interviews before the Service.

The petitioner's marriage [REDACTED] ended in divorce on March 15, 2000. The petitioner filed the instant Form I-360 petition on May 27, 2004 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, [REDACTED] during their marriage. The director denied the Form I-360 petition on April 11, 2005 based upon the determination that the petitioner did not have a qualifying relationship as the spouse of a United States citizen.

The petitioner filed a timely appeal, dated May 12, 2005. The petitioner supplemented her appeal with a statement, a letter from a doctor indicating that the petitioner is suffering from anxiety, and copies of documents related to her divorce [REDACTED]

In the statement provided by the petitioner on appeal, the petitioner discusses the fact that she is receiving treatment from a doctor, that her children have been born in the United States, that she fears her family's return to her home country, and that she has custody of her children. As it relates to the director's stated ground for denial, the petitioner states that her attorney "mislead [her] as his client and applied for re-consultation removal despite [sic] I did not have any deportation order before and I did not go to any Immigration Judge, so he did a big mistake." The petitioner further states:

I would like to inform you that I went to his office in the beginning of the 2 years period requested by law. If you have any inquiries regarding my case, please do not hesitate to contact my attorney.

The petitioner claims her attorney "did a big mistake." It is noted that the record contains no Form G-28, Notice of Entry of Appearance as Attorney or Representative, indicating that the petitioner has ever been represented by an attorney. Regardless, although it appears that the petitioner is attempting to make a claim of ineffective assistance of counsel, any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with

appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988). The petitioner has not satisfied any of the requirements noted in *Lozada*.

Moreover, although the petitioner indicates on the Form I-290B that she is submitting a separate brief and/or evidence to the AAO within 30 days, to date, more than seven 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.

The petitioner fails to allege any error on the part of the director or to refute the director's finding that the petitioner was divorced from her citizen spouse more than two years prior to the filing of the petition.¹ 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.

¹ Section 204(a)(1)(A)(iii)(II)(aa)(CC) of the Act indicates that a self-petitioner must have been a "bona fide spouse of a United States citizen *within the past 2 years*" and must be able to demonstrate "a connection between the legal termination of the marriage with the past 2 years and battering or extreme cruelty by the United States citizen spouse."