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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted]  
EAC 05 050 52901

Office: VERMONT SERVICE CENTER

Date: SEP 14 2008

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Acting Director (Director), Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as a special immigrant pursuant to section 204(a)(1)(A)(iii), 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 he resided with his spouse, that he was battered by or subjected to extreme cruelty by his spouse, and that he entered into his marriage in good faith.

The petitioner filed a timely appeal on December 5, 2005.

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 [Secretary of Homeland Security] that—

- (aa) the marriage or the intent to marry the 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 record reflects that petitioner married [REDACTED], a United States citizen, on August 16, 2002 in Douglas County, Nebraska. The petitioner's spouse filed a Form I-130, Petition for Alien Relative, on the petitioner's behalf on August 26, 2002. The petitioner concurrently filed a Form I-485, Application to Adjust Status, on that same date. The petitioner's spouse withdrew the Form I-130 on November 10, 2004 and the Form I-485 was denied on January 12, 2005. The petitioner filed the instant Form I-360 self-petition on December 9, 2004, claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, his United States citizen spouse during their marriage. The director issued a notice of intent to deny the Form I-360 petition on July 20, 2005 and denied the petition on November 1, 2005, finding that the petitioner failed to establish that he resided with his spouse, that he was battered by or subjected to extreme cruelty by his spouse, and that he entered into the marriage in good faith. In addition to finding that the evidence in the record was not sufficient to establish the petitioner's claims, the director also specifically identified several inconsistencies between the petitioner's claims and the evidence contained in the record as the reason for the denial.

On appeal, the petitioner indicates that he does not agree with the director's decision but fails to specifically identify how the director's findings are incorrect or based upon an erroneous conclusion of law or fact. The petitioner also states that he furnished all of the documents in his possession, that his marriage was valid and entered into in good faith, that he was a victim of abuse, and that his wife provided "wrong information to the Service so that I could be deported." The petitioner fails to point to specific evidence to support his statements and does not provide any additional arguments or information on appeal to rebut the findings of the director. It is also noted that the petitioner fails to address the director's finding regarding the lack of evidence to establish that the petitioner resided with his spouse.

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's general assertions regarding his evidence and the director's decision do not satisfy the requirements of the regulation. 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.*

**ORDER:** The appeal is dismissed.