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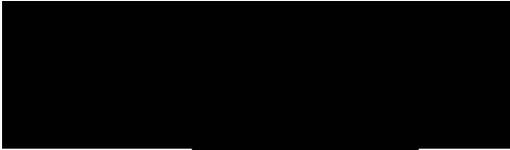
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
EAC 06 106 50172

Office: VERMONT SERVICE CENTER

Date: DEC 11 2008

IN RE: Petitioner: [REDACTED]

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

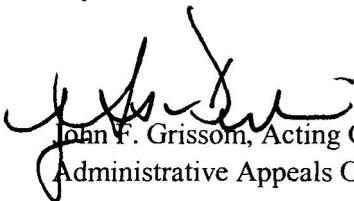
ON BEHALF OF PETITIONER:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).


Joan F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. The matter is now before the Administration Appeals Office (AAO) on appeal. The appeal will be summarily dismissed. The petition will be denied.

The petitioner seeks immigrant classification 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 an alien battered or subjected to extreme cruelty by a United States citizen.

Section 204(a)(1)(A)(iii) of the Act provides that an alien who is the spouse of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the alien or a child of the alien was battered or subjected to extreme cruelty perpetrated by the alien’s spouse. In addition, the alien must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

The director issued a Notice of Intent to Deny (NOID) the petition on April 21, 2006 notifying the petitioner of the deficiencies in the record and affording the petitioner the opportunity to provide evidence to establish: that she had resided with her United States citizen spouse; that she had been subjected to battery or extreme cruelty perpetrated by her husband during the qualifying relationship; that she is a person of good moral character; and that she entered into the qualifying relationship in good faith.

On November 20, 2006, the director denied the petition, observing that the petitioner had submitted a statement but had not provided additional evidence or reasons for not providing evidence regarding her claims to have resided with her spouse, to have been battered or subjected to extreme cruelty by her spouse during the qualifying relationship, and to have entered into the qualifying relationship in good faith. The director noted that the petitioner had re-submitted copies of a Notice of Motion and Motion to Request Dismissal of Charges Pursuant to PC § 1385 and related court documents. The director found, however, that the record contained evidence that the petitioner had been found guilty of the essential elements of violating California Health & Safety Code 31135(A), a felony for possession of a controlled substance, to wit: cocaine on June 5, 1986 and had been ordered by the Los Angeles County Superior Court to be placed on felony probation for a period of three years. The director acknowledged that the charges were subsequently dismissed on the motion filed January 6, 2005 but that the petitioner had been found guilty of committing the essential elements of the crime and had been convicted of the charges. The director determined that the petitioner had failed to establish: that she had resided with her United States citizen spouse; that she had been subjected to battery or extreme cruelty perpetrated by her husband during the qualifying relationship; that she is a person of good moral character; and that she entered into the qualifying relationship in good faith.

The petitioner timely submits a Form I-290B, Notice of Appeal.

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 statement on the Form I-290B reads:

I’m a person of good moral character. I have never had any problems in my life, I just happened to be with the wrong people at the wrong place and at the wrong time. I just admitted at that time that [I] was guilty only because I was told by the public defendant [sic] that I can get released faster if I admitted to being guilty.

I certify, under penalty of perjury under the laws of the United States of America, that the following is true and correct.

The petitioner again submits the Minute Order of the Superior Court of California, County of Los Angeles, dated January 6, 2005, granting the defense’s (the petitioner in this matter) motion to dismiss the charges filed against the petitioner in June 1986. The petitioner does not submit any further evidence or argument regarding her failure to establish that she had resided with her United States citizen spouse; that she had been subjected to battery or extreme cruelty perpetrated by her husband during the qualifying relationship; that she is a person of good moral character; and that she entered into the qualifying relationship in good faith.

The petitioner in this matter does not identify specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal. The AAO is without further evidence or argument to evaluate regarding the petitioner’s failure to establish essential elements of eligibility for this benefit. The petitioner’s failure to specifically address the director’s findings and present evidence and argument identifying the director’s erroneous conclusions of law or statements of fact mandate the summary dismissal of 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.

The petition will be denied for the stated reasons set out in the director’s decision, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.