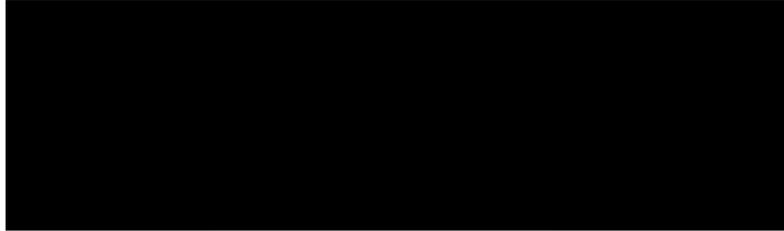


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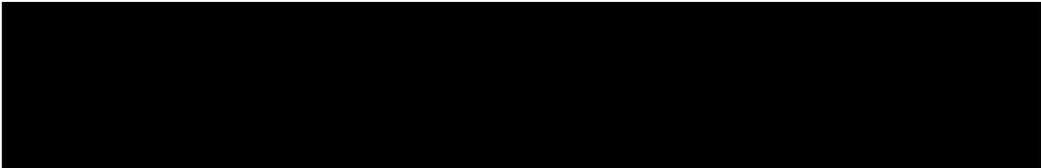
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Petitioner:



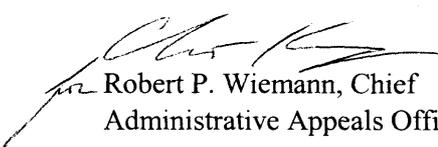
PETITION: Petition for Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. On appeal, the Administrative Appeals Office (AAO) remanded the petition for further action by the director. The matter is now before the AAO upon certification of the director's subsequent, adverse decision. The October 11, 2007 decision of the director will be affirmed and the petition will be denied.

Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (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).

Section 204(a)(1)(J) of the Act further states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) . . . or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

As the facts and procedural history have been adequately documented in the previous decision of the AAO, we will only repeat certain facts as necessary here. The director initially denied the petition on December 29, 2005, finding that the petitioner failed to establish that he was battered or subjected to extreme cruelty by his citizen spouse during their marriage and that he entered into his marriage in good faith. On appeal, the AAO concurred with the findings of the director but remanded the case on October 4, 2006 because the director denied the petition without first issuing a Notice of Intent to Deny (NOID) pursuant to the regulation at 8 C.F.R. § 204.2(c)(3)(ii).

Upon remand, the director issued a NOID on March 8, 2007, which addressed the petitioner's failure to establish his claim of battery or extreme cruelty and his good faith marriage. The petitioner timely responded to the director's NOID with additional evidence. On October 11, 2007, after addressing the petitioner's claims and the additional evidence received into the record, the director found that the petitioner failed to establish his claim of abuse and his good faith marriage. The director's discussion will not be repeated here. The director certified his decision to the AAO for review and notified the petitioner that he could submit a brief to the AAO within 30 days of service of the director's decision. The record contains a brief from the petitioner dated November 5, 2007.

Our review focuses on the evidence submitted subsequent to the AAO's remand decision. The evidence consists of the petitioner's briefs and six affidavits from the petitioner's friends. In his briefs, the petitioner contends that he has submitted sufficient evidence to establish the requisite abuse and good faith marriage but does not present any new facts or provide further details regarding either of his claims. Given our previous detailed discussion regarding the insufficiencies of the petitioner's testimony, his failure to submit any new facts or probative details to overcome the noted insufficiencies cannot overcome these findings. Although the petitioner also submitted additional testimony from friends, these affidavits also fail to present any additional probative details which

establish the petitioner's claims. The affidavits from [REDACTED] and [REDACTED] contain virtually identical language regarding the claimed abuse and good faith marriage. With regard to his good faith marriage, these affidavits indicate that the petitioner spoke of his spouse "with much affection and inspiration," and that after seeing the petitioner and his spouse "on multiple occasions . . . from [their] close communication . . . [they] remained with the impression that they loved each other and had a good faith marital relationship." The affidavits do not specifically describe any particular occasion shared with the petitioner and his spouse or the actions of the petitioner and his spouse that resulted in the affiants' "impression" of a good faith marriage. The remaining affidavits contain similarly general statements and also fail to provide any probative description of the petitioner's and his spouse's interactions with each other or their life together to support the claim that the petitioner entered into the marriage in good faith.

As it relates to the petitioner's claim of abuse, the affiants reiterate the previous claims regarding the petitioner's spouse's use of alcohol and drugs and her "disapproval of [the petitioner's] fellow countrymen". These claims were previously found by the director and the AAO to be insufficient to establish that the petitioner was battered or subjected to extreme cruelty. Although [REDACTED], and [REDACTED] also generally claim that the petitioner's spouse would throw objects at the petitioner, including plates and glasses, none of the affidavits describes any one incident in detail. Further, we note that although [REDACTED] had previously submitted an affidavit on the petitioner's behalf, he did not make any claim regarding objects being thrown at the petitioner at that time. He provides no explanation for his failure to include this claim previously.

Based upon the above discussion, we concur with the findings of the director that the petitioner failed to establish that he was battered or subjected to extreme cruelty by his spouse during their marriage and that he entered into his marriage in good faith. Consequently, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act and his petition must be denied.

The petition will be denied for the above stated reasons, 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.

Accordingly, the October 11, 2007 decision of the director is affirmed and the petition is denied.

ORDER: The petition is denied. The October 11, 2007 decision of the director is affirmed.