U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm. A3042
Washington, DC 20529

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U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: APR 27 2005
EAC 04 005 50474

IN RE: Petitioner: [redacted]
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:

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.

for

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a 42-year old native and citizen of Mexico 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 U.S. citizen.

According to the evidence on the record, the petitioner wed United States citizen Luis A. Venegas on January 13, 2001 in Chicago, Illinois. The petitioner filed a Form I-360 on October 2, 2003, claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, her United States citizen spouse.

The director denied the petition, finding that the petitioner failed to establish that she resided with her United States citizen spouse during the marriage and that she entered into the marriage to the citizen in good faith.

On appeal, the petitioner submits additional affidavits from individuals who previously submitted affidavits in support of the petition.

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 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;
> >
> > * * *
> >
> > (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.

In a request for additional evidence, the director instructed the petitioner to submit evidence that she had resided with her spouse and entered into the marriage in good faith. The petitioner responded to the request.

The evidence in the record relating to the issues of joint residence and a bona fide marriage consists of the following:

- Undated uncaptioned photographs of the petitioner and her spouse.
- The petitioner's marriage certificate.

In review, the evidence is insufficient to establish the bona fides of the marriage, that the petitioner resided with her spouse, or that the petitioner entered into the marriage in good faith.

The petitioner failed to submit insurance policies in which she or her spouse is named as the beneficiary. She failed to submit bank statements, tax records and other documents that show she shared accounts and other responsibilities with her spouse. She failed to submit evidence of joint ownership of property. No children were born of the marriage. The affidavits provided contain scant information about the petitioner and her husband's courtship and married life. The record has not established a commingling of funds and assets or joint financial liabilities, or other objective evidence to indicate that the petitioner and her husband intended to establish a life together.

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.