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

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PUBLIC COPY

U.S. Citizenship and Immigration Services

B9

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JAN 2 6 2005
EAC 02 076 5300

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.

Marc Johnson

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 summarily dismissed.

The petitioner is a native of Algeria and citizen of Syria 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 director denied the petition, finding that the petitioner had failed to establish that he had been battered or subjected to extreme cruelty by his United States citizen wife. On appeal, counsel for the petitioner indicated that he would submit a brief and/or additional evidence within ninety days of filing the appeal. More than one hundred and twenty days have lapsed since the appeal was filed and nothing more has been submitted to the record. Counsel further asserts on appeal that the petitioner can sustain his burden of proof in demonstrating battery and/or extreme cruelty with his affidavit alone. Counsel has since withdrawn his representation of the petitioner.

The record of proceedings indicates that the petitioner previously wed [redacted] and divorced on May 8, 1996. According to the evidence on the record, the petitioner entered the United States as a B-2 nonimmigrant visitor on June 25, 1996. The petitioner wed [redacted] a naturalized citizen of the United States 12 years his senior, on December 21, 1997 in Cranston, Rhode Island. The petitioner's wife filed a Form I-130 on the petitioner's behalf on January 26, 1998. She withdrew the petition on January 24, 2000. The petitioner was placed in removal proceedings on March 14, 2000. On December 27, 2001, the petitioner filed a Form I-360 petition.

The petitioner failed to address specifically the grounds for denial set forth in the decision of the director. The director determined that the allegedly abusive conduct of the petitioner's wife did not rise to the level of extreme cruelty for purposes of establishing eligibility under section 204(a)(1)(A)(iii) of the Act. On appeal, former counsel for the petitioner asserts that the petitioner's affidavit alone, if credible, is sufficient evidence to establish battery and/or extreme cruelty. Counsel further indicated that a brief and/or additional evidence would be submitted within 90 days of filing the appeal. More than 90 days have lapsed and nothing more has been submitted to the record except evidence that the immigration judge granted the petitioner's counsel's motion to withdraw from representation before the immigration judge and a letter from counsel withdrawing from further representation on 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.

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.

ORDER: The appeal is dismissed.