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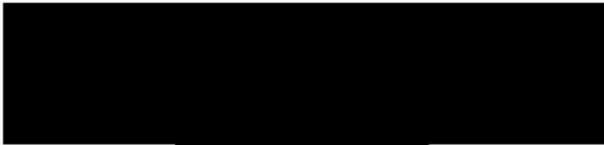
U.S. Department of Homeland Security  
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Washington, DC 20529



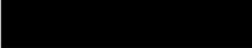
U.S. Citizenship  
and Immigration  
Services

By

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FILE:



Office: VERMONT SERVICE CENTER

Date: NOV 03 2006

EAC 06 073 51189

IN RE:

Petitioner:



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 Director, Vermont Service Center, denied the immigrant visa petition and 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) of 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.

The director denied the petition because the petitioner did not establish that his wife battered or subjected him to extreme cruelty.

On appeal, the petitioner repeats his claims regarding his wife's alleged abuse.

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).

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].

The eligibility requirements are further explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase "was battered by or was the subject of extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . , must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner's marriage to the abuser.

The evidentiary standard and requirements for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

Evidence for a spousal self-petition –

(i) *General.* Self-petitioners are encouraged to submit primary evidence whenever possible. The Service will consider, however, 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 Service.

\* \* \*

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or have taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other forms of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuses may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

The record in this case shows that the petitioner is a native and citizen of Morocco who entered the United States on November 3, 2001 as a nonimmigrant visitor (B-1). On March 27, 2002, the petitioner married C-H-<sup>1</sup> in Wisconsin. On January 9, 2006, the petitioner filed this Form I-360. The director issued a Request for Evidence (RFE) on March 7, 2006 of, *inter alia*, the requisite battery or extreme cruelty. The petitioner timely responded. On May 23, 2006, the director issued a Notice of Intent to Deny (NOID) the petition for lack of the requisite battery or extreme cruelty. The petitioner timely responded. The director denied the petition on July 26, 2006 and the petitioner timely appealed. We concur with the director's determination. The petitioner's reiteration of his claims on appeal does not overcome the ground for denial and the appeal will be dismissed.

The petitioner initially submitted his January 5, 2006 statement in which he explains that after their marriage, his wife:

Changed completely, she was abducted [sic] to drug and alcohol. She caused me lot problems [sic] and she didn't respect me at all. She left me and she took course from Meta house to stay away from drug and alcohol . . . . She tried to robber [sic] me with force by sending some teenagers. . . She uses my personal information to get credit card in my name.

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<sup>1</sup> Name withheld to protect individual's identity.

The petitioner submitted an undated letter addressed to him from Meta House, which invites him to an educational and support group for family members of Meta House clients. The letter does not identify the petitioner's wife and the petitioner submitted no evidence that he actually attended the support group. The petitioner also submitted a police report, which shows that four young men robbed the petitioner and his friend on the night of March 16, 2003. The police report does not identify the petitioner's wife or otherwise corroborate his claim of her involvement in the attack. The petitioner submitted an "Affidavit of Fraudulent Application" completed by himself on January 21, 2004, in which the petitioner states his belief that his wife may have fraudulently applied for a credit card in his name. An accompanying letter dated February 2, 2004 from the Cross Country Bank informs the petitioner that he is not responsible for the account, but does not identify his wife or otherwise corroborate his claim that she perpetrated the fraud.

In response to the RFE, the petitioner submitted his April 17, 2006 statement in which he claims that his wife was behind the robbery because the police report states that he lost his work permit and bank card and the petitioner explains that his wife returned those documents to him the day after he was robbed. While the police report does state that the petitioner's work permit and bank card were stolen during the robbery, the report does not state that the petitioner's wife returned those items or otherwise corroborate her purported involvement in the robbery.

In his April 17, 2006 statement, the petitioner also explains that his wife is the only person who knows his social security number, birth date and work information and so the petitioner claims she used his personal information to perpetrate the credit card fraud in his name. Again, the petitioner's affidavit and the related letter from Cross Country Bank do not identify the petitioner's wife or otherwise corroborate his claim that she perpetrated the fraud.

In response to the NOID, the petitioner submitted his June 19, 2006 statement in which the petitioner claims that the police report shows that his wife was involved in the robbery because the report states that the incident occurred one block from where the petitioner's wife lived at the time. The police report states that the robbery occurred after the petitioner left his place of employment and began walking northbound towards [REDACTED]. The petitioner submitted a copy of his wife's Milwaukee County identification card which shows her address as [REDACTED] in Milwaukee. While these documents indicate that the petitioner was en route to his wife's home when he was robbed, the evidence does not corroborate his claim that his wife was involved in the robbery.

In response to the NOID, the petitioner also submitted his credit report dated March 9, 2004, which shows that a Cross Country Bank account was deleted from his record pursuant to an investigation. While the credit report indicates that someone fraudulently obtained a credit card account in the petitioner's name, the credit report does not show that the petitioner's wife perpetrated the fraud.

The record does not establish that the petitioner's wife battered or subjected him to extreme cruelty, as that term is defined in the regulation at 8 C.F.R. § 204.2(c)(1)(vi). The petitioner does not state that his wife ever physically assaulted him and the record does not corroborate his claim of her involvement in

the robbery. The evidence also fails to establish that the petitioner's wife threatened him with violence or that her nonviolent actions were part of an overall pattern of violence. The petitioner's testimony and the documentary evidence do not establish that his wife's drug and alcohol addiction included physical or psychological abuse against the petitioner. The evidence also fails to corroborate the petitioner's claim regarding his wife's allegedly fraudulent obtainment of a credit account in his name.

Accordingly, the record does not establish that the petitioner's wife battered or subjected him to extreme cruelty, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act. The petitioner is consequently ineligible for classification under section 204(a)(1)(A)(iii) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii), and his self-petition must be denied.

The burden of proof in visa petition 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.