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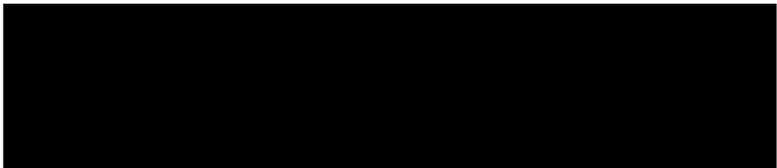
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: JUN 11 2007  
EAC 06 093 52095

IN RE: Petitioner: [REDACTED]

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:

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.

*Maura Deadrick*  
fr 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 immigrant classification under 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 her husband battered or subjected her to extreme cruelty during their marriage and that she was a person of good moral character.

On appeal, the petitioner submits additional evidence as well as copies of documents previously submitted below.

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 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 . . . spouse, must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner's marriage to the abuser.

(vii) *Good moral character.* A self-petitioner will be found to lack good moral character if he or she is a person described in section 101(f) of the Act. Extenuating circumstances may be taken into account if the person has not been convicted of an offense or offenses but admits to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. . . . A self-petitioner will also be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she . . . committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character. A self-petitioner's claim of good moral character will be evaluated on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community.

\* \* \*

The evidentiary guidelines 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.

(v) *Good moral character.* Primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for six or more months during the 3-

year period immediately preceding the filing of the self-petition. . . . If police clearances, criminal background checks, or similar reports are not available for some or all locations, the self-petitioner may include an explanation and submit other evidence with his or her affidavit. The Service will consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the self-petitioner's good moral character.

\* \* \*

The record in this case provides the following pertinent facts and procedural history. The petitioner is a native and citizen of Colombia who entered the United States on April 29, 2002 as a nonimmigrant student (F-1). On July 23, 2005, the petitioner married A-G-<sup>1</sup>, a U.S. citizen, in Puerto Rico. The petitioner filed this Form I-360 on February 3, 2006. The director subsequently issued a Notice of Intent to Deny (NOID) the petition for lack of, *inter alia*, the requisite battery or extreme cruelty and good moral character. The petitioner timely responded to the NOID with additional evidence. The director denied the petition on September 27, 2006 for lack of the requisite battery or extreme cruelty and good moral character. The petitioner timely appealed.

On appeal, the petitioner asserts that she is under medical treatment for psychological and physical conditions resulting from her husband's abuse. The petitioner also claims that the evidence previously submitted established her good moral character. We concur with the director's determinations. The petitioner's claims and the evidence submitted on appeal fail to overcome the grounds for denial.

*Battery or Extreme Cruelty*

The record contains the following evidence relevant to the petitioner's claim that her husband subjected her to battery or extreme cruelty during their marriage:

- The petitioner's undated personal statement submitted with the Form I-360 and her second, undated statement submitted on appeal;
- The petitioner's Demand for Divorce printed in Spanish;
- The December 22, 2005 letter to the petitioner from the Office of the Inspector General at the U.S. Army Garrison at Fort Buchanan, Puerto Rico submitted below and the Office's May 4, 2006 letter to the petitioner submitted on appeal;
- Affidavit of the petitioner's friend, [REDACTED];
- Sworn declaration of the petitioner's friend, [REDACTED];
- Sworn statement of the petitioner's friend, [REDACTED];
- Letter of the petitioner's friend, [REDACTED]; and
- Copies of the petitioner's medical records submitted on appeal.

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

In her first statement, the petitioner reported that on one occasion before their marriage, her husband tried to force her to have intimate relations against her will and did not stop until she began screaming. Shortly after their marriage, the petitioner states that her husband left for military training and ceased communicating with her. The petitioner reports that her husband had his salary deposited in his own individual account, rather than their bank account, leaving her without any financial resources. The petitioner states that on unspecified occasions, her husband insulted her over the telephone, threatened to make sure that she was deported, told her he already got what he wanted from her and told her to forget about his past promises because he only cared about his new life. The petitioner states that she became depressed and sought psychiatric treatment, but she did not submit any corroborative evidence of such treatment.

The remaining, relevant evidence submitted below fails to establish that the behavior of the petitioner's husband rose to the level of extreme cruelty. The petitioner's friends confirm that her husband left her with financial difficulties and abandoned her after he joined the Army. However, none of the petitioner's friends indicate that they witnessed any specific incidents of abuse. The December 22, 2005 letter from the Office of the Inspector General of the Army in Puerto Rico confirms that the petitioner sought the Army's assistance in getting her husband to provide for her. The May 4, 2006 letter states that the petitioner's husband was separated from the Army and recommends that the petitioner pursue her case in civil court. Neither of the letters establish that the petitioner's husband's lack of financial support rose to the level of extreme cruelty, as that term is defined in the regulation at 8 C.F.R. § 204.2(c)(1)(vi).

The petitioner states that she filed for divorce on the grounds of cruel treatment and irreparable rupture, but she did not submit a certified translation of her divorce demand to corroborate her claim. Any document containing a foreign language that is submitted to Citizenship and Immigration Services (CIS) must be accompanied by a full English translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). Because the petitioner failed to submit certified translations of her divorce demand, we cannot determine whether the evidence supports the petitioner's claim. *Id.*

In her personal statement submitted on appeal, the petitioner reports that she was diagnosed with lupus in June 2003, that her condition was controlled for three years after medical treatment, but that she suffered a "flare up" in May 2006. The petitioner opines that the recurrence of her lupus symptoms was caused by the stress from her husband's behavior. The petitioner states that by May of 2006 she had submitted her divorce petition and had requested help from the Army, but was then told that her husband had been discharged. The petitioner explains that her husband filed a counter-petition in their divorce case and that her health worsened as the date for the first hearing approached. At the hearing on July 13, 2006, the petitioner states that her husband did not appear and that from then on her illness worsened to the point where she was bed-ridden and developed an allergy to nearly every type of food. The petitioner explains that as a result of her husband's abandonment, she was left without medical

insurance and her new insurance would not cover her treatments. The petitioner states that in addition to the medications for her physical health conditions, she is also being treated with an anti-depressant.

The medical records submitted on appeal confirm that the petitioner was treated for a resurgence of her lupus symptoms from May 31 to September 29, 2006. The initial evaluation of the petitioner by her physician on May 31, 2006 states that the petitioner suffered from anxiety, mood changes, insomnia and fatigue, but none of the records mention the petitioner's marital problems as a causative factor of her physical or mental health conditions. The medical records show that the petitioner was prescribed several medications, but the records do not indicate that any of the medications are anti-depressants.

The evidence submitted on appeal shows that the petitioner suffered from serious health conditions beginning in May 2006. However, the petitioner has not demonstrated that her husband's extreme cruelty, rather than the breakdown of her marriage, was a causative factor of her health problems. The petitioner indicates that she stopped residing with her husband when he left for military training on August 3, 2005 and that she last had direct contact with him sometime after she filed her divorce petition in December 2005. The petitioner submitted no corroborative documentation of her treatment by a psychiatrist (as she claimed in her first statement) and the medical records submitted on appeal do not mention the petitioner's marital conflicts as a source of her physical or mental health conditions. Accordingly, the evidence submitted on appeal fails to establish that the petitioner's husband subjected her to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

#### *Good Moral Character*

As evidence of her good moral character, the petitioner submitted a Certificate of No Penal Record from the Police of Puerto Rico dated January 31, 2006. The certificate states that no penal record was found for "[REDACTED]." In the NOID, the director informed the petitioner that Citizenship and Immigration Services (CIS) records showed that she had used two other aliases and requested her to submit additional evidence of her good moral character in the form of a police clearance under her name and all of her aliases, or a clearance based on a search of her fingerprints. The director specifically stated that if the petitioner was unable to submit such evidence, she should provide an explanation of why such documentation was unavailable. In response to the NOID, the petitioner submitted no further evidence of her good moral character. Accordingly, the director denied the petition, in part, for lack of the requisite good moral character.

On appeal, the petitioner submits a copy of the January 31, 2006 Certificate of No Penal Record from Puerto Rico, which she refers to as the "evidence required" to establish her good moral character. However, the record shows that the petitioner has used the following aliases: "[REDACTED]" (on her U.S. Uniformed Services identification card) and "[REDACTED]" (on an unspecified identification card numbered [REDACTED]). The petitioner failed to submit a police clearance based on a search of her name and all her aliases or based on a search of her fingerprints. The petitioner also failed to provide any explanation of why such documentation was unavailable or

unobtainable. Accordingly, the petitioner has not demonstrated that she is a person of good moral character, as required by section 204(a)(1)(A)(II)(bb) of the Act and pursuant to the regulation at 8 C.F.R. § 204.2(c)(2)(v).

The petitioner has not established that her husband subjected her to battery or extreme cruelty during their marriage and that she is a person of good moral character. The petitioner is consequently ineligible for immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Act and her 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 appeal will be dismissed.

**ORDER:** The appeal is dismissed.