



U.S. Citizenship
and Immigration
Services

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APR 30 2009

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date:

EAC 07 232 50762

IN RE: Petitioner:

[REDACTED]

PETITION:

Petition for Immigrant Abused 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:

[REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed. The petition will be denied.

The petitioner seeks immigrant classification 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 an alien battered or subjected to extreme cruelty by a United States citizen.

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).

The director denied the petition on August 26, 2008, determining that the petitioner had not established that she had been subjected to battery or extreme cruelty perpetrated by a United States citizen. The director observed that the petitioner stated in her personal statement that her spouse had abandoned the marital home by moving back to Nigeria in 2005. The director noted that the petitioner added in a subsequent personal statement that her spouse had physically abused her, that she had sought medical treatment at a hospital, and that she had called the police. The director found that the petitioner had not submitted any evidence from the hospital or the police to substantiate her claim that her spouse had physically abused her. The director determined that the petitioner had not provided sufficient evidence for the record to establish that she had been subjected to battery and/or extreme cruelty.

The petitioner timely submits a Form I-290B, Notice of Appeal. The petitioner, on the Form I-290B states: that she is a victim of extreme cruelty as her United States citizen spouse failed to fulfill the basic obligations arising from the marital contract; that he abandoned her and had been engaged in acts of adultery which constitutes extreme cruelty and inhuman treatment; and that her spouse’s acts of adultery and abandonment and inhuman treatment endangered her physical and mental well-being and her health by “causing reasonable apprehension of bodily suffering.” The record does not contain further information or evidence submitted on appeal. Thus, the record is considered complete.

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.”

The director properly articulated reasons why the petitioner had not established that she had been subjected to battery or extreme cruelty as required by the pertinent statute and regulations. The AAO reiterates that abandonment and infidelity are not considered extreme cruelty as described in the regulation at 8 C.F.R. § 204.2(c)(1)(vi), which includes (but is not limited to) actions such as forceful

detention, psychological or sexual abuse or exploitation, rape, molestation, incest, or forced prostitution. Accordingly, the petitioner failed to establish that she was battered or subjected to extreme cruelty by her spouse during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

As the petitioner in this matter does not identify specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal and does not submit further argument or evidence in support of the appeal, the AAO is without further evidence or argument to evaluate regarding the petitioner's failure to establish essential elements of eligibility for this benefit. The petitioner's failure to specifically address the director's findings and present evidence and argument identifying the director's erroneous conclusions of law or statements of fact mandate the summary dismissal of 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.

The petition will be denied for the stated reason set out in the director's decision. 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.

ORDER: **The appeal is summarily dismissed.**