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U.S. Citizenship
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FILE: [Redacted] Office: VERMONT SERVICE CENTER
EAC 06 250 50035

Date: **MAR 10 2009**

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:

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.

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 Administration 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 issued a Notice of Intent to Deny (NOID) the petition on June 11, 2007 notifying the petitioner of the deficiencies in the record and affording the petitioner the opportunity to provide additional evidence. The director noted that the petitioner had previously filed a petition pursuant to section 204(a)(1)(A)(iii) of the Act which had been denied and that the petitioner’s appeal had been dismissed by the AAO. The director found that the petitioner had not presented any new evidence in support of the petition that is the subject of this appeal.

On November 20, 2006, the director denied the petition, finding that the petitioner had not submitted any additional evidence establishing: that she had resided with her United States citizen spouse; that she had been subjected to battery or extreme cruelty perpetrated by her husband during the qualifying relationship; that she is a person of good moral character; and that she entered into the qualifying relationship in good faith.

The petitioner timely submits a Form I-290B, Notice of 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.”

The petitioner’s statement on the Form I-290B reads:

Following response of denial from your office, I have requested my former husband C-B-¹ to confirm that I married him in good faith. Attached is a confirmation letter,

¹ Name withheld to protect individual’s identity.

birth certificate and drivers license (copies). I hope that these documents will help to prove my case. Thank you.

The petitioner submits her former husband's birth certificate and a copy of his driver's license. She also submits an undated letter purportedly signed by C-B- stating: "I was married to [the petitioner] on April 19th 2002 in good faith. Unfortunately our union did not work out due to irreconcilable differences."

The petitioner does not submit any further evidence or argument regarding her failure to establish that she had resided with her United States citizen spouse; that she had been subjected to battery or extreme cruelty perpetrated by her husband during the qualifying relationship; and that she is a person of good moral character. The AAO also finds that the petitioner's former husband's letter does not assist in establishing the applicant's intent in entering the marriage; thus, the petitioner has not provided any new evidence that would establish that she entered into the marriage in good faith.

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. 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 reasons set out in the director's decision, 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.

ORDER: The appeal is summarily dismissed.