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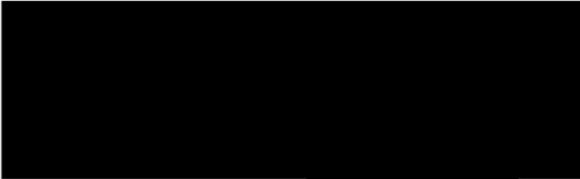
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

EAC 04 251 52745

MAR 23 2009

IN RE: Petitioner:



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:



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 naturalized 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 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, after determining that the applicant had not established that she entered into the qualifying relationship in good faith.

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 timely submits a Form I-290B, Notice of Appeal. Counsel for the petitioner asserts that United States Citizenship and Immigration Services (USCIS) erred when not considering documents submitted to substantiate the affidavits of individuals who claimed that the petitioner entered into her marriage with S-A-¹ in good faith. The record does not include a brief or additional evidence. The record is considered complete.

Although the director does not list each document submitted to support the petitioner’s claim that she entered into the marriage with S-A- in good faith, the documents listed by counsel on appeal do not substantiate that the petitioner entered into the marriage in good faith. The record contains one item that shows the petitioner’s husband’s address as the address listed on the petitioner’s Form G-325A, Biographic Information as her address from October 2000 to October 2003, a portion of the time the petitioner claimed to be married. This document does not establish the petitioner’s intent in marrying S-A- and does not include any evidence that the petitioner and S-A- had joint accounts for utilities, banks, insurance, or property. The record contains no indicia of a claimed married life together for almost three years. Moreover, the record does not include a statement from the petitioner detailing how she met S-A-, their interactions before and during the alleged April 2001 to January 2004 marriage, other than the claimed abuse, or any other information that would be useful in establishing her intent

¹ Name withheld to protect individual’s identity

upon entering into the marriage. Further, the record does not include any information relating to the claimed break up of the marriage or any evidence establishing a basic chronological timeline regarding the petitioner and S-A- and their claimed difficulties. Counsel on appeal does not include any information, evidence, or argument that would assist in substantiating that the claimed marriage was legitimate and the petitioner entered into the marriage in good faith.

Counsel does not identify specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal. Asserting the director failed to properly weigh one piece of evidence does not provide an adequate basis for appeal. The assertions of counsel without documentary evidence to support the claim will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The AAO is without further evidence or argument to evaluate regarding the petitioner's failure to establish essential elements of eligibility for this benefit. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

Of note, the AAO finds beyond the decision of the director, that the petitioner has not established she resided with S-A-, has not provided adequate documentation establishing her good moral character, and has not provided substantive evidence that she was subjected to battery or extreme cruelty perpetrated by S-A-. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

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.

ORDER: The appeal is summarily dismissed.