

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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

PUBLIC COPY

B4

FILE: [REDACTED] Office: VERMONT SERVICE CENTER  
EAC 06 258 50561

Date: **MAR 24 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 April 19, 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 not provided sufficient evidence of the shared residence with the claimed abuser; had not provided sufficient evidence that he had been subjected to battery or extreme cruelty; and had not provided sufficient evidence that he entered into the marriage in good faith. The director also noted that the petitioner’s spouse had filed a Form I-130 on his behalf and that when the petitioner and his spouse were interviewed regarding the Form I-130 petition, the interviewing officer found various discrepancies in the testimony demonstrating that the petitioner and his spouse had not entered into a *bona fide* marriage. The Form I-130 was denied on the basis of the inconsistencies between the testimony of the petitioner and his spouse which demonstrated to the director that the petitioner had not entered into a *bona fide* marriage. The director in this matter further noted that the petitioner had not submitted evidence that the marital difficulties claimed by the petitioner were beyond those difficulties encountered in many marriages.

Upon review of the evidence submitted in response to the NOID and upon the totality of the record, the director denied the petition on September 11, 2007. The director found that the petitioner had not submitted sufficient, credible evidence establishing: that he had resided with his United States citizen spouse; that he had been subjected to battery or extreme cruelty perpetrated by his spouse during the qualifying relationship; and that he entered into the qualifying relationship in good faith.

The petitioner timely submits a Form I-290B, Notice of Appeal. On the Form I-290B, the petitioner asserts that United States Citizenship and Immigration Services (USCIS) failed to consider the evidence submitted and asserted that the approval of the petition is supported in the record. The petitioner also asserts that his spouse “had intentionally rendered information to sabotage [his] immigration benefits when the immediate relative case was scheduled for the in-person interview.” The petitioner alleges that his spouse is mentally unfit and used addictive medications and drugs.

The petitioner submits the same documents submitted in response to the NOID, documents that have been properly considered by the director.

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 does not submit any new evidence or argument regarding his failure to establish that he had resided with his United States citizen spouse; that he had been subjected to battery or extreme cruelty perpetrated by his spouse during the qualifying relationship; and that he entered into the marriage in good faith. The petitioner’s assertion that the director failed to adequately consider the evidence submitted is without merit. The AAO finds that the director properly considered the petitioner’s statement, the psychological assessment, and affidavits and other documents submitted on his behalf. The petitioner did not provide any new evidence or argument on appeal substantiating that his spouse is mentally unfit or any other new evidence establishing these three essential elements and thus eligibility to receive this benefit.

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, including the deficiencies of the evidence as found by the director 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.