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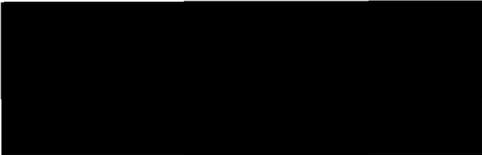
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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APR 27 2010

FILE:

[Redacted]
EAC 08 018 51182

Office: VERMONT SERVICE CENTER

Date:

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:

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).

Perry Rhew
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 July 21, 2009, determining that the petitioner had not established that he had been subjected to battery or extreme cruelty by his spouse or that he had entered into the marriage in good faith.

The petitioner timely submits a Form I-290B, Notice of Appeal or Motion, and attaches his August 8, 2009 statement, additional statements from two friends, an account statement from the gas company addressed to the petitioner and his spouse dated October 15, 2002 for service rendered from August 1999 to July 2002, and previously submitted utility bills for two months of services in 2002 and for one month of service in April 2003. Although the petitioner indicated that an additional brief and/or evidence would be submitted to the AAO within 30 days, the record does not include further evidence. Thus, the record is considered complete.

In the petitioner’s statement on appeal, he adds information not previously provided to the director either initially or in response to the director’s request for further evidence (RFE) regarding alleged battery. The petitioner states: that his spouse hit him over the head with a bottle on various occasions; that his spouse squeezed his genital area while screaming at him; and that on one occasion while at a party she hit and scratched him because she thought he was flirting with another woman. Not only did the petitioner fail to previously disclose these incidents to United States Citizenship and Immigration Services (USCIS) these incidents were not disclosed to either the petitioner’s clinical psychologist or his case manager and/or senior counselor at the Safe Horizon non profit organization. The petitioner states that he did not previously mention these incidents out of respect to himself.

In one of the two statements provided by the petitioner’s friends on appeal, the declarant indicates that she saw the petitioner’s spouse start hitting and scratching the petitioner while at a party because the petitioner’s thought the petitioner was flirting with her. The declarant does not explain why she did not bring up this incident in her first letter to USCIS or further elaborate on the incident described in her initial letter. In the second statement provided by a different friend on appeal, the declarant indicates

that she witnessed the petitioner's spouse calling him derogatory names.

On the Form I-290B the petitioner states that he failed to detail the experience of living with his spouse because of respect for her and himself and out of embarrassment. The petitioner requests that this matter be reconsidered and that the statements of his friends be considered.

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."

In this matter, the statements of the petitioner and the two individuals submitting statements on his behalf on appeal are general statements that in and of themselves do not establish credibility and are sufficiently vague as to not lend themselves to evaluations regarding credibility. When evaluating these statements, the AAO finds that the statements lack definitive information regarding specific instances of abuse that could be categorized as battery or extreme cruelty. The AAO declines to accept generic information with little chronological timeline to establish eligibility for this benefit. Moreover, the AAO finds that the petitioner's has gradually escalated the severity of the claimed abuse over the course of the petition. The AAO does not find the petitioner's explanation that he was embarrassed or did not disclose details out of respect for himself or his wife to USCIS as credible. As noted above, the petitioner also failed to provide detailed information regarding the particulars of the incidents he described on appeal to his psychologist or counselor.

The AAO has also reviewed the submission of an additional account statement on appeal, ostensibly submitted to establish the petitioner's good faith in entering into the marriage. The AAO observes, as the director also noted, that the utility bills submitted center around a time period in 2002 and 2003. The petitioner's explanation that he does not have other information because his spouse "ripped all [his] documents, photos, bills etc." does not assist in establishing that the petitioner entered into his marriage in good faith. The petitioner does not provide further testimony or evidence regarding the circumstances of the couple's meeting, their interactions throughout the time they were together (from 1996 to 2006), or their living arrangements. The record on appeal does not provide further pertinent detailed information either through specific testimony or documentation that demonstrates the *bona fides* of the petitioner's marriage.

The petitioner does not provide further credible evidence or argument on appeal that establishes the director's decision was based on a misunderstanding of the facts of the matter or that the director misinterpreted the law. The additional statements and documentation provided on appeal do not provide the necessary information demonstrating that the petitioner was a victim of battery or extreme cruelty as defined in the regulation or statute. Neither does the information submitted on appeal provide evidence or information that establishes the *bona fides* of the petitioner's marriage.

The petitioner does not identify specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal. Rather, the petitioner disagrees with the director's decision without providing further probative evidence or argument to evaluate regarding his failure to

establish essential elements of eligibility for this benefit. The petitioner's failure to present evidence and argument identifying the director's erroneous conclusions of law or statements of fact mandate the summary dismissal of the appeal. The evidence has been considered and has been found to be insufficient to establish that the petitioner in this matter suffered battery or extreme cruelty perpetrated by the petitioner's spouse and that the petitioner entered into the marriage in good faith.

The petition will be denied for the stated reasons 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.