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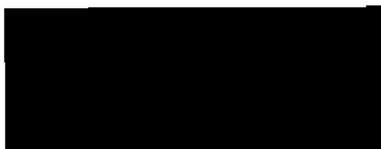
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals, MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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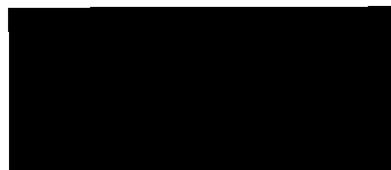
FILE: [REDACTED] Office: VERMONT SERVICE CENTER  
EAC 09 242 50089

Date: **AUG 13 2010**

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you

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.<sup>1</sup>

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).

On February 18, 2010, the director denied the petition, determining that the applicant had not established: that she had a qualifying relationship with a United States citizen or lawful permanent resident; that she is eligible for immigrant classification pursuant to section 201(b)(2)(A)(i) of the Act; that she had been subjected to battery or extreme cruelty by her United States citizen spouse; and that she had entered into the marriage 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.”

Counsel for the petitioner timely submits a Form I-290B, Notice of Appeal or Motion. Counsel checked the box on the Form I-290B indicating that her brief and/or additional evidence is attached. Counsel asserts: that the petitioner submitted evidence of her good faith marriage through the Form I-130/I-485 adjustment package, which was already submitted; that the petitioner’s marriage certificate erroneously reflects that she had been married twice before when she had only been married once before; and that the petitioner married a convict without having any knowledge that he was a convict and thus got herself into a bad relationship as set out in her declaration. Counsel

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<sup>1</sup> The AAO observes that the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, that is the subject of this appeal, is not signed by the petitioner. Instead of a signature, the words “original signed” appear. The date is left blank. In addition, the Form I-360, that is the subject of this appeal, is incomplete. For example, the petitioner does not state when she began her residence with the claimed spouse or the length of time and where she resided with the claimed husband. The record does include a Form I-360 filed December 21, 2007 (EAC 08 065 50019) that was denied on December 14, 2009 in which the denial was based on the petitioner’s abandonment of the petition. The first filed Form I-360 includes the petitioner’s signature, her claimed residence with her U.S. citizen spouse, and where she allegedly resided with her U.S. citizen spouse.

attaches previously submitted documents and bank statements for 2004, 2005, 2007 and 2008 for a checking account that lists the petitioner and L-C-<sup>2</sup> as joint owners.

Upon review of the director's decision in this matter, the AAO notes that the director reviewed all the information in the record including a previously filed Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, which was denied on December 14, 2009 for abandonment. The record does not include a corrected marriage certificate showing the petitioner only married once before and does not include a declaration from the petitioner explaining this error and her attempts to correct the discrepancy. Thus, neither the petitioner nor counsel has provided further evidence or argument to support the petitioner's claim that she was only married once before, not twice, and thus the divorce from the petitioner's prior husband already submitted for the record is sufficient to establish that she was free to marry L-C-, the claimed abusive U.S. citizen spouse. The AAO concurs with the director's determination that the petitioner has not established that she had a qualifying relationship with a United States citizen or lawful permanent resident and that she is eligible for immigrant classification pursuant to section 201(b)(2)(A)(i) of the Act.

The petitioner also fails to submit evidence of the claimed abuse perpetrated by the claimed U.S. citizen spouse. The director in this matter reviewed the petitioner's declaration and noted the deficiencies in the record regarding the petitioner's testimony regarding the claimed abuse. Counsel's assertion references the petitioner's previously submitted declaration but fails to provide additional evidence or argument in support of the petitioner's claim that she was the victim of abuse perpetrated by her claimed U.S. citizen spouse. Although counsel appears to disagree with the director's ultimate decision on this issue, counsel does not provide a basis for the appeal. The AAO concurs with the director's determination that the petitioner has not established that she was subjected to battery or extreme cruelty perpetrated by the petitioner's claimed U.S. citizen spouse.

The AAO acknowledges the submission of several years of bank statements, submitted in an attempt to establish that the petitioner entered into the marriage in good faith; however, as the director observed, the petitioner stated on the previously filed Form I-360 that she resided with L-C- from October 11, 2004 to July 1, 2005. These bank statements fail to provide evidence of the petitioner's intent in entering into the marriage. The AAO finds that the petitioner's brief declaration does not provide probative testimony regarding the petitioner's introduction to the claimed abusive spouse, her interactions with the claimed abusive spouse other than as it relates to generally described incidents of alleged abuse, or other substantive information so that United States Citizenship and Immigration Services (USCIS) could determine that she entered into the marriage in good faith. The information submitted on appeal is insufficient as a basis for this appeal. The AAO concurs with the director's determination that the petitioner did not enter into the marriage in good faith.

Upon review of the record including the director's articulation of the reasons the evidence in support of the instant petition is insufficient, the AAO finds that counsel on appeal does not provide any further evidence or argument to support the petitioner's claim of eligibility for this benefit. Counsel

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<sup>2</sup> Name withheld to protect the individual's identity.

does not identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. Accordingly, the appeal must be summarily dismissed.

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.