

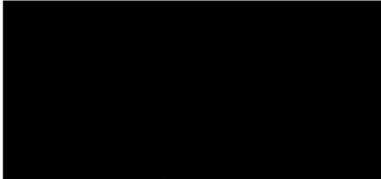
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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B9.

FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 06 2010

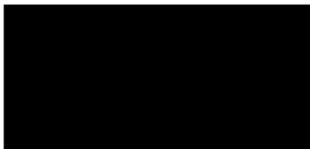
IN RE: Petitioner:



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:

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.

The director determined that the petitioner had not established that she is the spouse of the claimed abusive U. S. citizen and accordingly had not established a qualifying relationship with him. The director also noted that the record did not include evidence that the petitioner and the claimed abusive U.S. citizen resided together.

The petitioner timely submits a Form I-290B, Notice of Appeal or Motion, checking the box on the Form I-290B indicating that a brief and/or additional evidence is attached. The petitioner does not submit a brief or further evidence but states on the Form I-290B: that she and the claimed abusive U.S. citizen were engaged in 1998; that the engagement was celebrated and "ceremonized;" that she resided with the claimed abusive U.S. citizen; and that she had a child with the claimed abusive U. S. citizen. The petitioner identifies the claimed abusive U.S. citizen as her fiancé. To date, no further evidence or brief has been submitted. The record is considered complete.

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 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 record in this matter does not include evidence that the petitioner and the U.S. citizen married. The petitioner's assertions on appeal reiterate that the couple never married. The paternity of the petitioner's child does not establish a qualifying relationship, as defined in the statute and regulations, between the petitioner and the child's father. Upon review of the director's decision in this matter, the AAO notes that the director reviewed all the evidence submitted for the record, including a response to the director's request for further evidence. The director correctly concluded that there is no statutory eligibility for a fiancé of a U.S. citizen under section 204(a)(1)(A)(iii) of the Act.

The AAO is without further evidence or argument to support the petitioner's claim that she had a

qualifying relationship with a U.S. citizen. Neither counsel nor the petitioner submits further evidence substantiating that the petitioner and the claimed abusive U.S. citizen married. The petitioner 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.