



U.S. Citizenship  
and Immigration  
Services

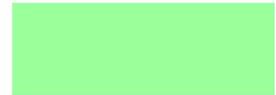
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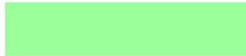
Date: DEC 05 2014

Office: VERMONT SERVICE CENTER

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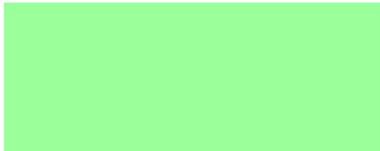


IN RE: Self-Petitioner:



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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Vermont Service Center director (the director) denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

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 her U.S. citizen spouse.

The director denied the petition because the petitioner entered into a prior marriage to evade the immigration laws and section 204(c) of the Act, 8 U.S.C. § 1154(c), consequently bars approval of her self-petition. On appeal, the petitioner submits a statement by counsel.

The record shows that the director issued a Notice of Intent to Deny (NOID) notifying the petitioner that the record indicated she was subject to section 204(c) of the Act and giving her the opportunity to submit evidence of the bonafides of her prior marriage. The record shows that in denying the Form I-360 self-petition, the director reviewed all the submitted and relevant evidence and independently determined that section 204(c) of the Act is a bar to this self-petition's approval.

On appeal, counsel briefly asserts that the director erred, as the petitioner's prior marriage "is irrelevant to the merits of her I-360," and even if her prior marriage was "false" and entered into for the purpose of evading the immigration laws, "it does not disqualify her from seeking adjustment of status as a battered spouse based on a marriage to another man." Despite counsel's assertions to the contrary, section 204(c) of the Act bars the approval of an immigrant petition, including one filed under section 204(a)(1)(A)(iii) of the Act.<sup>1</sup>

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. 8 C.F.R. § 103.3(a)(1)(v). While briefly expressing disagreement with the director's application of section 204(c) of the Act to the petitioner's case, counsel does not identify any specific, erroneous conclusion of law or statement of fact in the director's decision.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is summarily dismissed.

<sup>1</sup> Section 204(c) of the Act, 8 U.S.C. § 1154(c), states, in pertinent part: "[N]o petition shall be approved if – (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative . . . status as the spouse of a citizen of the United States . . . , by reason of a marriage determined by the [Secretary of Homeland Security] to have been entered into for the purpose of evading the immigration laws. . . ." (Emphasis added)