U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

B9

FILE: [redacted] Office: Vermont Service Center Date: AUG 2 1 2001

IN RE: Petitioner:
Beneficiary: [redacted]

APPLICATION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. 1154(a)(1)(A)(iii)

IN BEHALF OF PETITIONER:

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was revoked by the District Director, Baltimore, Maryland, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of Eritrea (Ethiopia) who is seeking classification as a special immigrant 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 the battered spouse of a United States citizen.

The district director revoked the approval of the visa petition after determining that the submitted documentation failed to establish that he: (1) has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen during the marriage; (2) entered into the marriage to the citizen in good faith; and (3) is a person whose deportation (removal) would result in extreme hardship to himself, or to his child.

On appeal, the petitioner asserts that he disagrees with the decision of the district director to revoke his I-360 petition, and that the decision is contrary to the evidence in the record. While the petitioner states that a brief and additional evidence will be furnished within 30 days, it has been approximately seven months since the filing of the appeal in this matter, and neither a brief nor additional evidence has been received. Therefore, the record is considered complete.

8 C.F.R. 204.2(c)(1), in effect at the time the self-petition was filed, states, in pertinent part, that:

> (i) A spouse may file a self-petition under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act for his or her classification as an immigrant relative or as a preference immigrant if he or she:
>
> > (A) Is the spouse of a citizen or lawful permanent resident of the United States;
> >
> > (B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship;
> >
> > (C) Is residing in the United States;
> >
> > (D) Has resided in the United States with the citizen or lawful permanent resident spouse;
> >
> > (E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during

> the marriage; or is the parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage;
>
> (F) Is a person of good moral character;
>
> (G) Is a person whose deportation (removal) would result in extreme hardship to himself, herself, or his or her child; and
>
> (H) Entered into the marriage to the citizen or lawful permanent resident in good faith.

The record reflects that the petitioner entered the United States as an F-1 student on August 7, 1987. The petitioner married his United States citizen spouse on [redacted]. On November 3, 1997, a self-petition was filed by the petitioner claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, his U.S. citizen spouse during their marriage. The petition was approved by the Vermont Service Center on March 3, 1998.

Section 205 of the Act, 8 U.S.C. 1155, states, in pertinent part, that:

> The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204. Such revocation shall be effective as of the date of approval of any such petition.

The district director reviewed and discussed the evidence furnished by the petitioner and contained in the record of proceeding. That discussion, however, will not be repeated here. Because he noted that the evidence furnished failed to establish eligibility pursuant to 8 C.F.R. 204.2(c)(1)(i)(E), (G), and (H), on July 10, 2000, the district director issued a notice of intent to revoke the petition. The petitioner was accorded 30 days in which to submit additional evidence and to rebut the reasons for the Service's intent to revoke the petition.

Because the petitioner failed to submit any other documentation to overcome the derogatory information contained in the Service's notice of intent to revoke, the district director revoked the petition on December 21, 2000.

Although the petitioner, on appeal, asserts that he disagrees with the decision of the district director to revoke his I-360 petition, and that the decision is contrary to the evidence in the record, no

additional evidence was furnished to corroborate his assertion, and to overcome the district director's findings.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.