

Falls Church, Virginia 22041

File: A047 202 363 - New York, NY

Date: FEB 12 2009

In re: ALINA SHIPILINA

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jack Sachs, Esquire

ON BEHALF OF DHS: Khalilah M. Taylor
Assistant Chief Counsel

CHARGE:

Notice: Sec. 237(a)(1)(D)(i), I&N Act [8 U.S.C. § 1227(a)(1)(D)(i)] -
Conditional resident status terminated

APPLICATION: Waiver of filing joint petition to remove conditions on status

The respondent, a native and citizen of Russia, appeals the March 20, 2008, denial of her request for a waiver under section 216(c)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1186a(c)(4). *See also* 8 C.F.R. § 216.5. The appeal will be dismissed.

The respondent was admitted to the United States as a conditional permanent resident on July 10, 2000, based on her marriage to a United States citizen on March 11, 2000 (I.J. at 1-2; Exhs. 1 and 2C). After her marriage ended in divorce on December 18, 2001, she filed an application for a waiver of the joint petition filing requirements with the Department of Homeland Security ("DHS") on June 1, 2002 (I.J. at 2; Exh. 2C). The DHS denied this application on October 1, 2004, finding that she failed to establish that she entered into her marriage in good faith (I.J. at 2; Exh. 2C). The respondent renewed her application in these proceedings and the Immigration Judge similarly held that she failed to show that she entered into a good faith marriage (I.J. at 3-8).

On July 18, 2008, we rejected the respondent's motion to accept a late-filed brief. Thus, we consider only the arguments raised in the Notice of Appeal. The respondent generally avers that her "right to due process was violated at several stages of the adjudication process." We disagree, as the transcript demonstrates that she received a full and fair hearing below. The respondent also argues that the DHS's denial of her petition to remove the conditions on her residence was unfounded and based on unauthenticated evidence. Even if this were true, the Immigration Judge did not simply consider the DHS denial in determining that the respondent did not enter into her marriage in good faith. On the contrary, he supported this finding by noting: (a) the lack of evidence that she commingled assets and property with her ex-husband; (b) her filing of a tax return as "single" for

the calendar year during which she was married; (c) her lack of a joint bank account with her ex-husband; (d) her failure to submit corroborating evidence of joint health insurance with her former spouse; (e) the lack of children from the marriage; (f) the absence of witnesses with firsthand knowledge of the couple's cohabitation; and (g) the absence of other reliable documentation demonstrating a good faith marriage (I.J. at 4-7; Tr. at 63-64, 83, 85-90). *See* 8 C.F.R. § 216.5(e)(2). In addition, the respondent's assertion that her ex-husband forced her to work as a nude dancer in the United States is undermined by the fact that she worked in this profession before and after her divorce (I.J. at 6-7; Tr. at 60-62, 73-85). In any event, this claim does not relate to the pivotal issue of whether she entered into her marriage in good faith. For these reasons, we find no reversible error in the denial of the respondent's application for a waiver under section 216(c)(4) of the Act.

Accordingly, the following order is entered.

ORDER: The appeal is dismissed.



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