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## End the immigration `widow's penalty'

Had her husband lived four months more, Dahianna Heard would already be a U.S. resident. Instead, he died short of their two-year anniversary, and now she is fighting deportation.

Inflexible U.S. immigration authorities routinely point to the law and deny the residency petitions of immigrants who lose their American spouses before they've been married two years. The law, however, allows for interpretation and discretion. All too often, immigration authorities take hard-line stances that distort the intent of the law.

### Promising development

That is true in the case of Ms. Heard of Casselberry, an Orlando suburb. A Venezuelan immigrant, she married Jeffrey Heard, a U.S. security contractor working in Iraq. The couple petitioned for her residency and had a son. The infant was 5 months old when Mr. Heard was killed in March 2006.

Since then, the U.S. Citizenship and Immigration Services has denied Ms. Heard's residency petition twice. Her immigration lawyer, Ralph Pineda, says CIS may reopen the case provided that Mr. Heard served in the military and died in combat. This is a promising development. His family says Mr. Heard was in the Army 12 years and was discharged honorably. He was shot to death in an ambush while in a convoy delivering supplies to U.S. troops in Fallujah -- a war zone.

Nonetheless, immigrant widows and widowers who had legitimate marriages shouldn't have to jump through hoops to obtain legal status.

Yes, immigration law requires a couple to be married two years before the foreign spouse may be granted permanent residency. But the intent of the two-year rule is to discourage fraudulent marriages and petitions -- not to add to the suffering of people mourning a death.

That's why a potential class-action lawsuit in California is challenging the so-called "widow's penalty." Ms. Heard is among the 85 women involved. They are facing deportation because their husbands died before the time limit, not because of fraud. Mr. Pineda also noted a recent lower court ruling favoring one widow. CIS argued that the untimely death of the spouse meant the immigrant no longer was an "immediate relative." The court ruled against that absurd argument.

### `Unfair, preposterous'

Ms. Heard was in a legitimate marriage to a U.S. citizen. That he died tragically doesn't make her less of a widow or less worthy of staying here. Nor should her sons -- the U.S.-born 1-year-old and an 11-year-old legal resident from a previous marriage -- have to suffer deportation with her, too. Her mother-in-law is right to say it's "unfair, preposterous and unacceptable" to deport them. Mr. Heard ``would not have wanted his son to be sent out of this country."

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