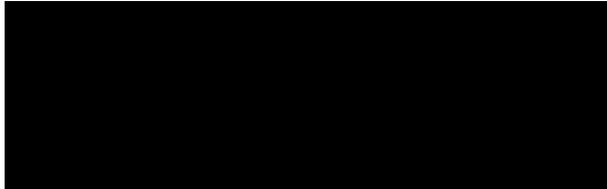




U.S. Citizenship
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prevent clearly unwarranted
invasion of personal privacy**



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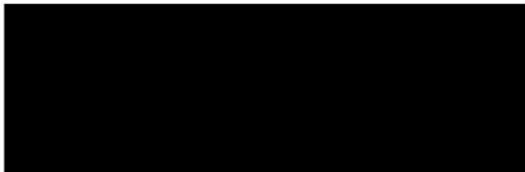
Office: VERMONT SERVICE CENTER

Date: DEC 14 2006

IN RE: Petitioner: [Redacted]

PETITION: Petition for 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)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition and the Administrative Appeals Office (AAO) rejected the subsequent appeal. The petitioner, through counsel, then filed a Motion to Reopen and Reconsider. The motion will be rejected.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(A)(iii) of 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.

On September 1, 2005, the director denied the petition, finding that the petitioner failed to establish the requisite good faith marriage and battery or extreme cruelty. The service center received counsel's appeal on October 4, 2005, but returned the appeal because it was submitted with the improper fee. Counsel resubmitted the appeal with the correct fee on November 7, 2005, which was 67 days after the date of the director's decision. On June 29, 2006, the AAO rejected the appeal as untimely filed pursuant to the regulation at 8 C.F.R. § 103.3(a)(2). On August 4, 2006, counsel filed the instant Motion to Reopen and Reconsider.

The AAO rejected and did not enter a decision on the merits of the petitioner's appeal. The statute and regulations do not provide for reopening or reconsideration of the rejection of an appeal. Accordingly, the petitioner's motion must be rejected for lack of jurisdiction.

ORDER: The motion to reopen and reconsider is rejected.