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**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY

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[Redacted]

FILE: [Redacted]
EAC 05 148 53258

Office: VERMONT SERVICE CENTER

Date: JUN 09 2008

IN RE: Petitioner: [Redacted]

PETITION: Petition for Immigrant Abused Child Pursuant to Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iv)

ON BEHALF OF PETITIONER:

[Redacted]

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.

Maui Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. On appeal, the Administrative Appeals Office (AAO) remanded the matter for further action. The matter is now before the AAO upon certification of the director's subsequent, adverse decision. The decision of the director will be affirmed and the petition will be denied.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(A)(iv) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1154(a)(1)(A)(iv), as an alien battered or subjected to extreme cruelty by a United States citizen.

Section 204(a)(1)(A)(iv) of the Act provides, in pertinent part:

An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act], and who resides, or has resided in the past, with the citizen parent may file a petition with the [Secretary of Homeland Security] under this subparagraph for classification of the alien, (and any child of the alien) under such section if the alien demonstrates to the [Secretary of Homeland Security] that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent.

Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J), states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

The director initially denied the petition on August 4, 2005, finding that the petitioner failed to establish that he had a qualifying relationship as the child of a United States citizen. In our September 11, 2006 decision on appeal, although we concurred with the director's determination, we remanded the petition for issuance of a Notice of Intent to Deny (NOID) in compliance with the regulation then in effect at 8 C.F.R. § 204.2(c)(3)(ii)(2006).¹ In our decision, we also indicated that the director should consider whether the petitioner had established that he was a person of good moral character. Upon remand, the director issued a NOID on October 13, 2006, which informed the petitioner, through counsel, of the deficiencies in the record and afforded him the opportunity to establish the requisite qualifying relationship and good moral character. The petitioner failed to respond to the director's NOID.

¹ On April 17, 2007, Citizenship and Immigration Services (CIS) promulgated a rule related to the issuance of requests for evidence and NOIDs. 72 Fed. Reg. 19100-19107. The rule became effective on June 18, 2007, *after* the filing and adjudication of this petition.

Accordingly, the director denied the petition on March 9, 2007, based on the grounds cited in the NOID. The director certified his decision to the AAO for review and notified the petitioner, through counsel, that he could submit a brief to the AAO within 30 days of service of the director's decision. To date, the AAO has received nothing further from the petitioner or counsel. Accordingly, the record is considered to be complete as it now stands.

The relevant evidence submitted below was discussed in the previous decision of the AAO, which is incorporated here by reference. The petitioner has submitted no further brief or evidence since the issuance of that decision. Accordingly, the petitioner failed to establish that he had a qualifying relationship as the child of a United States citizen and that he is a person of good moral character. Consequently, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iv) of the Act and his petition must be denied.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the March 9, 2007 decision of the director is affirmed and the petition is denied.

ORDER: The director's decision of March 9, 2007 is affirmed. The petition is denied.