

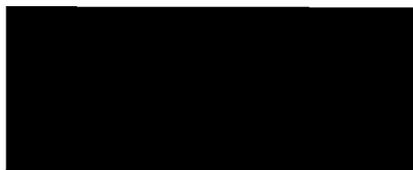
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B9



FILE: [REDACTED] Office: VERMONT SERVICE CENTER
EAC 07 217 50187

Date: **AUG 06 2010**

IN RE: Petitioner: [REDACTED]

PETITION: Petition for Immigrant Abused 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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed. The petition will be denied.

The petitioner seeks immigrant classification 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 an alien battered or subjected to extreme cruelty by a United States citizen.

Section 204(a)(1)(A)(iii) of the Act provides that an alien who is the spouse of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States citizen in good faith and that during the marriage, the alien or a child of the alien was battered or subjected to extreme cruelty perpetrated by the alien's spouse. In addition, the alien must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

The director denied the petition, after determining that the applicant had not established: that he had resided with the United States citizen spouse; that he had been subjected to battery or extreme cruelty by the United States citizen spouse; and that he had entered into the marriage in good faith.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

Counsel for the petitioner timely submits a Form I-290B, Notice of Appeal or Motion. Counsel checked the box on the Form I-290B indicating that he is filing an appeal and that his brief and/or additional evidence would be submitted to the AAO within 30 days. To date, no supplemental brief and/or additional evidence has been submitted. The record is considered complete.

In a statement on the Form I-290B, counsel asserts that the petitioner met his burden of proof establishing that he entered into his marriage with the United States citizen abuser in good faith and references the previously submitted documentation. Counsel asserts that the director failed to give proper weight to the evidence establishing that the petitioner had been subjected to battery and/or extreme cruelty. Counsel contends that United States Citizenship and Immigration Services (USCIS) acted in an arbitrary and capricious manner, abused its discretion, failed to follow USCIS regulations, and failed to provide a proper legal and factual analysis of the petitioner's claim that he was a victim of extreme cruelty resulting in his adjustment disorder with mixed anxiety and depressed mood disorder.

Upon review of the director's decision in this matter, the AAO notes that the director reviewed the documents in the file, including the information the petitioner submitted in response to his request for further evidence. The director specifically noted discrepancies and deficiencies in the information submitted and upon review of the totality of the record determined that the petitioner had

Page 3

not submitted sufficient probative evidence to demonstrate that he had resided with the United States citizen spouse, that he had been subjected to battery or extreme cruelty by his United States citizen spouse, and that he had entered into the marriage in good faith. Neither counsel nor the petitioner addresses the discrepancies and deficiencies noted. Neither the petitioner nor counsel provides any further evidence or argument on appeal to support the petitioner's claim of eligibility for this benefit. Neither the petitioner nor counsel identifies specifically an erroneous conclusion of law or a statement of fact in this proceeding. Accordingly, the appeal must be summarily dismissed.

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.

ORDER: The appeal is summarily dismissed.