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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

B9

FILE:

Office: VERMONT SERVICE CENTER

Date: **DEC 22 2010**

IN RE:

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:

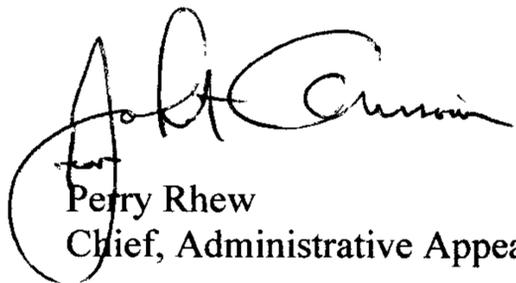
SELF-REPRESENTED

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 of the Vermont Service Center denied the immigrant visa petition and granted a subsequent motion to reconsider. On motion, the director again denied the petition and certified his decision to the Administrative Appeals Office (AAO) for review. Although the AAO withdrew portions of the director's decision, the AAO affirmed the denial of the petition. The AAO dismissed the petitioner's subsequent motion as untimely filed. The matter is now before the AAO on a second motion to reopen and reconsider. The motion will be dismissed.

The petitioner seeks immigrant classification under 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.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider must also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *Id.* A motion that does not meet the applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

In part two of the Form I-290B, Notice of Motion, the petitioner indicated that he was filing a motion to reopen and reconsider and that his brief and/or additional evidence was attached. However, no such attachment accompanied the Form I-290B. In part three of the Form I-290B in the space provided for stating the reasons for the motion, the petitioner stated, "I wish to file a motion to reopen on accounts [sic] of ineffective assistance of counsel. I will submit a brief under separate cover." The petitioner filed his Form I-290B on October 26, 2010. To date, nearly two months later, the AAO has received nothing further from the petitioner.

The petitioner's brief assertion does not meet the requirements for a motion to reopen or reconsider. The petitioner states no new facts supported by affidavits or other evidence. The petitioner has also not established that the AAO's prior decision was based on an incorrect application of law or USCIS policy. The petitioner's motion must therefore be dismissed.

**ORDER:** The motion is dismissed. The June 18 and September 27, 2010 decisions of the Administrative Appeals Office are affirmed.