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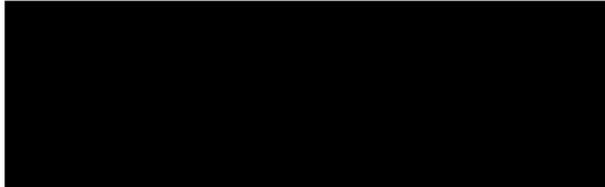
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date:

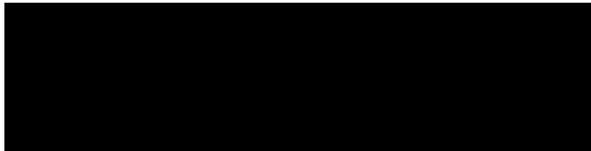
OCT 05 2010

IN RE: Petitioner:

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, revoked approval of the immigrant visa petition, and 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 spouse 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).

On November 3, 1997, the petitioner filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant which was subsequently approved on March 31, 1998. On December 21, 2000, the Baltimore District Office revoked the approval of the Form I-360. The petitioner appealed the decision and the AAO dismissed the appeal. On August 28, 2001, the petitioner filed a motion to reopen the matter. The matter was reopened and the AAO entered a decision on July 25, 2002 remanding the matter to the Baltimore District Office with instructions to return the petition to the Vermont Service Center for review and possible revocation. On November 30, 2006, the Director, Vermont Service Center, issued a Notice of Intent to Revoke (NOIR) approval of the petition. Counsel for the petitioner provided a rebuttal, including a personal statement from the petitioner, a statement from the petitioner's friend, and other documentation. Upon review of the evidence submitted in rebuttal to the NOIR, the director determined that the petitioner had not established that he had been subjected to battery or extreme cruelty and that he had not established that he had entered into the marriage in good faith. The director revoked approval of the petition on May 8, 2007.

On May 23, 2007, counsel for the petitioner filed a Form I-290B, Notice of Appeal to the Administrative Appeals Unit, and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. To date, no further argument or evidence has been submitted. The record is considered complete.

In an attachment to the Form I-290B, counsel for the petitioner asserts that the director erred in his decision revoking the petition. Counsel asserts that the director did not properly evaluate all of the documentary evidence submitted by the petitioner, in particular the petitioner's medical and psychological evaluation. Counsel contends that the petitioner suffered both physical and psychological harm as the result of the actions and behavior of his wife. Counsel further contends that the petitioner's affidavits and supporting evidence established that he married his wife in good faith and that her actions and reckless habits contributed to the marital problems and the harm that the petitioner experienced.

Upon review of the director's NOIR and the subsequent decision revoking approval of the petition, the AAO finds, contrary to counsel's assertion, that the director considered all documentary evidence provided and pointed out inconsistencies in the petitioner's statements as well as those of individuals who submitted statements on his behalf. In addition, the director reviewed the petitioner's statements regarding the claimed abuse and found that the information submitted did not reveal actions on the part of the claimed abusive spouse that rose to the level of extreme cruelty required by the statute and regulations. The director specifically reviewed the psychological evaluation prepared by [REDACTED] and pointed out the inadequacies of the evaluation when determining that the evaluation did not support the petitioner's claim for relief.

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."

On appeal, the petitioner does not provide further testimony clarifying his past statements; the petitioner does not provide further consistent evidence demonstrating the harm to which he was subjected; and the petitioner does not provide any further information regarding his introduction to and interactions with his claimed abusive spouse. As the petitioner does not provide further evidence or argument on appeal that establishes the director's decision was based on a *misunderstanding of the facts of the matter or that the director misinterpreted the law*, the appeal must be summarily dismissed. Neither counsel nor the petitioner identifies specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal.

The AAO is without further probative evidence or argument to evaluate regarding the petitioner's failure to establish essential elements of eligibility for this benefit. The petitioner's failure to specifically address the director's findings and present evidence and argument identifying the director's erroneous conclusions of law or statements of fact mandate the summary dismissal of the appeal.

The approval of the petition will be revoked for the stated reasons set out in the director's May 8, 2007 decision. 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. Approval of the petition is revoked.