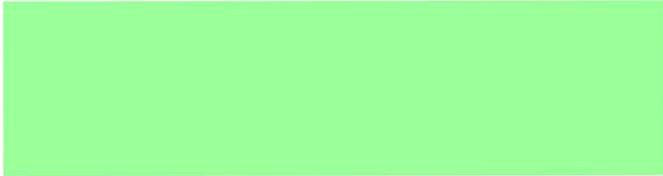




**U.S. Citizenship  
and Immigration  
Services**

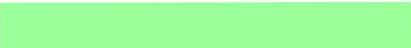
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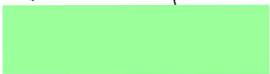
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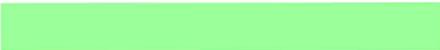


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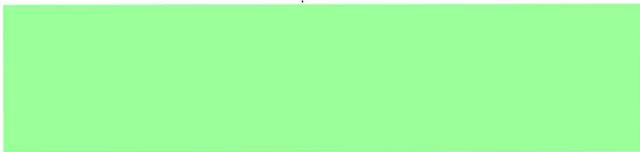
IN RE:

Self-Petitioner:



**PETITION:** Petition for Immigrant Abused Child Pursuant to Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(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 AAO inappropriately applied the law 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 in accordance with the instructions on Form I-290B, Notice of Appeal or motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** 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,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The service center director (the director) denied the immigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a motion to reopen or reconsider.<sup>1</sup> The motion will be dismissed.

The petitioner seeks immigrant classification under section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(iii), as an alien child battered or subjected to extreme cruelty by her U.S. lawful permanent resident parent.

The director denied the petition for failure to establish that the petitioner had a qualifying relationship as the child of a lawful permanent resident (LPR) and that she was eligible for immigrant classification based upon that relationship. The director also found that the petitioner had not demonstrated that she resided with her father or that her father subjected her to battery or extreme cruelty. The director further found that the petitioner had not established that the battery or extreme cruelty was one central reason for the petitioner's failure to file the petition before turning 21. The petition was denied on these grounds.

On appeal, the AAO withdrew the director's determination that the petitioner had not been subjected to battery or extreme cruelty, but affirmed all other grounds of denial provided in the director's decision. On motion, counsel states that the petitioner has met her burden of proof in this matter and that a brief addressing the substantive issues will be submitted within 30 days, or by February 16, 2013. As of this date, the record does not contain counsel's brief.

The requirements for a motion to reopen are described at 8 C.F.R. § 103.5(a)(2). The requirements for a motion to reconsider are found at 8 C.F.R. § 103.5(a)(3). Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) allows for the submission of a brief after the filing of an appeal, no similar provision applies to the filing of motions; the brief must be part of the motion filing. Here, counsel did not submit his brief with the filing of the motion, or at any time after, and provides no substantive arguments on the Form I-290B to establish that the filing meets the requirements of a motion to reopen or reconsider. Consequently, the motion must be dismissed for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

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 motion is dismissed. The appeal remains dismissed and the petition remains denied.

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<sup>1</sup> On the Notice of Appeal or Motion (Form I-290B) submitted on January 16, 2013, counsel checked Box B, which refers to the filing of an appeal and the submission of a brief or supplementary evidence to the AAO within 30 days. The AAO does not exercise appellate jurisdiction over its own decisions. The AAO exercises appellate jurisdiction over only the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). See DHS Delegation Number 0150.1(effective March 1, 2003). An appeal of an AAO appeal is not properly within the AAO's jurisdiction. Nevertheless, the AAO has reviewed the submission to determine whether it meets the requirements of a motion to reopen or reconsider, which it does not.