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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

Date: **MAR 05 2014** Office: VERMONT SERVICE CENTER File: [REDACTED]

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (“the director”), denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and affirmed its prior decision when deciding the petitioner’s first motion to reopen or reconsider. The matter is now before the AAO on a second motion to reopen or reconsider. The motion will be dismissed. The previous decisions of the AAO will be affirmed. The petition will remain 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.

The director denied the petition for failure to establish the requisite battery or extreme cruelty, and the AAO dismissed the petitioner’s subsequent appeal and motion to reopen and reconsider. Each of the previous AAO decisions is incorporated here by reference.

A motion to reopen must state the new facts to be proved 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: (1) 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; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The petitioner has not submitted any new evidence for a motion to reopen because the exhibits attached to the motion brief are duplicates of previously submitted documents. On motion to reconsider, counsel argues that the AAO erred by finding that the petitioner has not demonstrated her claims of manipulation and sexual abuse because the petitioner gave a detailed account of the abuse to her counselor and in her affidavit. Counsel states that she discussed *Hernandez v. Ashcroft*, 345 F.3d 824, 839 (9th Cir.2003), on appeal to show that the term “extreme cruelty” includes non-physical aspects of domestic violence, which may not initially appear violent, but are part of an overall pattern of violence. Counsel contends that R-C-’s behavior, as described by the petitioner (his ridicule, threats to deport her, drinking, pressure for her to give money and to be sexually intimate, and abandonment), constitutes extreme cruelty, and that the salient points in the appeal brief will be “rehashed” in the motion. However, counsel does not cite in the motion any binding precedent decisions or other legal authority establishing that the AAO’s prior decisions incorrectly applied the pertinent law or agency policy. Counsel does not demonstrate that the AAO’s prior decisions were erroneous based on the evidence of record at the time. Accordingly, the motion to reopen and reconsider must be dismissed. *See* 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be dismissed).

ORDER: The motion is dismissed. The decisions of the Administrative Appeals Office, dated June 5, 2013 and September 23, 2013, are affirmed and the petition remains denied.