



U.S. Citizenship
and Immigration
Services

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APR 27 2009

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:
EAC 07 092 50033

IN RE: [REDACTED]

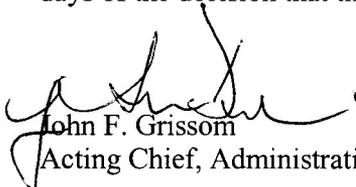
PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(B)(ii) of the
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(ii)

ON BEHALF OF PETITIONER:
[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the immigrant visa petition and, in response to a motion to reopen or reconsider, affirmed his decision to deny the petition.¹ The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks immigrant classification under section 204(a)(1)(B)(ii) of the Act, 8 U.S.C. § 1154(a)(1)(B)(ii), as an alien battered or subjected to extreme cruelty by a United States citizen.

The director denied the petition on the basis of his determination that the petitioner had failed to establish: (1) that she is not subject to the provisions of section 204(c) of the Act, 8 U.S.C. § 1154(c); (2) that she had a qualifying relationship with a citizen or lawful permanent resident of the United States; (3) that she is eligible for immigrant classification on the basis of such a relationship; (4) that she shared a joint residence with her husband; (5) that she was subjected to battery or extreme cruelty by her husband; (6) that she is a person of good moral character; and (7) that she married her husband in good faith.

A timely appeal was filed on September 15, 2008 and, although the issues of section 204(c) of the Act, qualifying relationship, eligibility for immigrant classification, good moral character, and good faith entry into the marriage are addressed, the issues of joint residence and battery and/or extreme cruelty are not.

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. 8 C.F.R. § 103.3(a)(1)(v).

The petitioner is, in essence, asking the AAO to reconsider the evidence of record before the director at the time he made his decisions on May 6 and August 14, 2008. However, such re-adjudication is inconsistent with 8 C.F.R. § 103.3(a)(1)(v). As the petitioner's representative fails to specifically identify any erroneous conclusion of law or statement of fact made by the director in his determination that the petitioner failed to establish that she shared a joint residence with her husband, or that she was subjected to battery and/or extreme cruelty by her husband, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.

¹ This the second Form I-360 filing by the petitioner. *See also* EAC 05 240 51968, filed August 31, 2005, and denied April 10, 2006. The director affirmed his denial of the petition on October 6, 2006.