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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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Services

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**APR 27 2009**

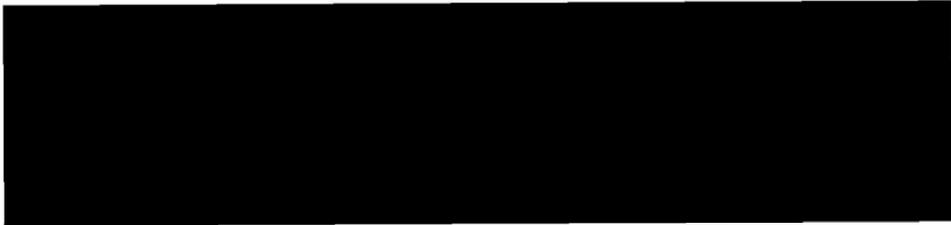
FILE:

EAC 06 084 50024

Office: VERMONT SERVICE CENTER

Date:

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:



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 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)(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.

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 is not subject to the provisions of section 204(g) of the Act, 8 U.S.C. § 1154(g); (3) that she shared a joint residence with her husband; (4) that she was subjected to battery or extreme cruelty by her husband; and (5) that she is a person of good moral character. Counsel filed a timely appeal on April 14, 2008 and, although he addresses the issues of sections 204(c) and (g) of the Act, joint residence, and battery and/or extreme cruelty on appeal, counsel elects not to address the director's determination that the petitioner failed to establish that she is a person of good moral character.

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).

Counsel is, in essence, asking the AAO to reconsider the evidence of record that was before the director at the time he made his decision. However, such a re-adjudication is inconsistent with 8 C.F.R. § 103.3(a)(1)(v). As counsel has failed 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 is a person of good moral character, 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.