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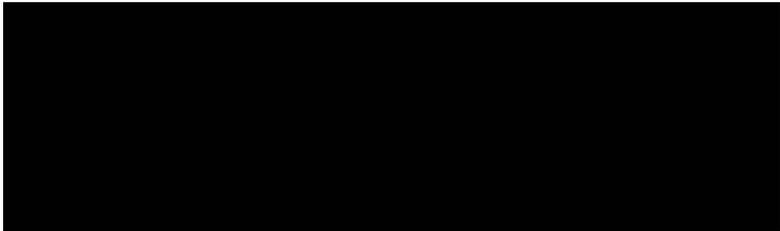


U.S. Citizenship
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Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

FEB 10 2009

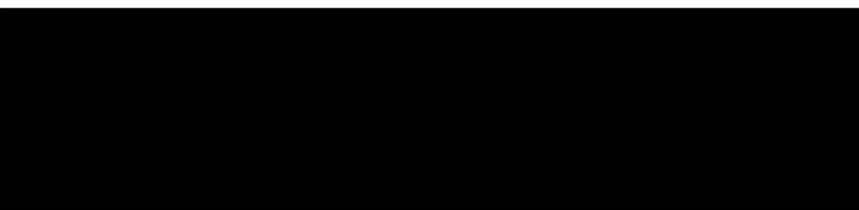
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IN RE:



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)

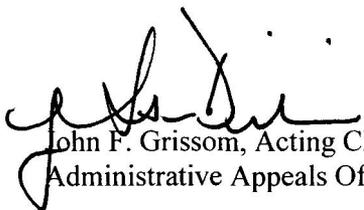
ON BEHALF OF PETITIONER:



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 that her husband subjected her to battery or extreme cruelty. Specifically, the director found that the petitioner's affidavits lacked sufficient detail; that the October 2005 incident upon which the petitioner's claim of battery is based was "mutually combative"; and that it was unclear why the petitioner did not file a police report pertaining to the October 2005 incident until March 2006. Counsel submitted a timely filed appeal on June 6, 2007, and requested 45 days in which to submit a brief and/or additional evidence. The AAO received the additional evidence, which consisted of a letter from counsel and a letter from the Virgin Islands Domestic Violence and Sexual Assault Council (Council), on July 27, 2007.

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).

In her undated letter, [REDACTED] of the Council, discusses the isolation many women in abusive familial situations face, particularly women from conservative religious cultures in which incidents of family violence are often covered up and excused. In her July 25, 2007 letter, counsel explains that most women in abusive situations in the Virgin Islands are afraid to seek assistance, as it is a male-dominated culture in which many victims do not feel police officers will believe the victim. She also notes that victims who lack permanent residency often fail to seek assistance because they fear for loss of their immigration status. Counsel then requests that the AAO review the evidence of record.

The director set forth his reasoning in his May 9, 2007 denial. Counsel's submission on appeal fails to specifically state how the director erred in his analysis; she does not address any of the director's three grounds for denial: (1) she does not respond to the director's finding that the petitioner's affidavits lacked sufficient detail; (2) she does not respond to the director's finding that the October 2005 incident was mutually combative; and (3) she does not respond to the director's questioning as to why the petitioner failed to file a police report pertaining to the October 2005 incident until April 2006.¹

¹ Although the two letters on appeal discuss, in general terms, the reluctance of many victims of domestic violence and abuse to seek out assistance, neither letter addresses the petitioner's particular situation. Neither letter states why the petitioner failed to file a police report until April 2006.

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 identify any erroneous conclusion of law or statement of fact, or present any additional evidence not already contained in the record, 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.