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U.S. Citizenship
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FILE: [REDACTED]
EAC 06 121 51045

Office: VERMONT SERVICE CENTER

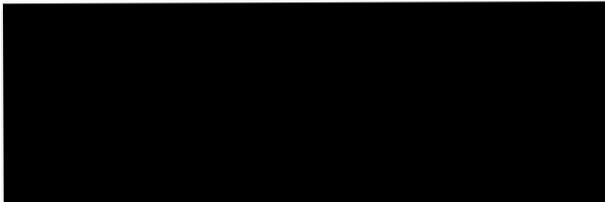
Date: JAN - 2 2009

IN RE: Petitioner:



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)

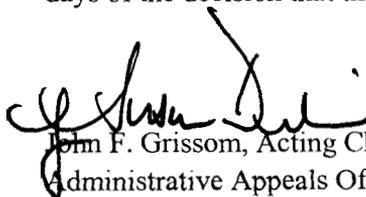
ON BEHALF OF PETITIONER:



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, as required by 8 C.F.R. 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. The matter is now before the Administration Appeals Office (AAO) on appeal. The appeal will be summarily dismissed. The petition will be 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.

Section 204(a)(1)(A)(iii) of the Act provides that an alien who is the spouse of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the alien or a child of the alien was battered or subjected to extreme cruelty perpetrated by the alien’s spouse. In addition, the alien must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

On February 23, 2007, the director denied the petition, finding that the petitioner failed to establish: that she had been subjected to battery or extreme cruelty perpetrated by her husband; that she is a person of good moral character; and that she entered into the marriage in good faith.

The petitioner, through counsel, timely submits a Form I-290B, Notice of Appeal. Counsel for the petitioner indicates on the Form I-290B that the petitioner needs an additional 60 days to submit a brief and/or evidence. In a letter appended to the Form I-290B, counsel for the petitioner claims that the petitioner is in the process of gathering the information that would satisfy her burden of proof and establish eligibility for the requested benefit. Counsel asserts that without the additional time requested the petitioner is unable to gather the necessary information and obtain the pertinent documents. Counsel in this matter, however, fails to provide any probative details regarding the nature of the documents or evidence that the petitioner was or is attempting to collect and does not explain the need to submit a late brief. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). Counsel has not shown cause for the need to submit a late brief or otherwise explain the necessity for the extension of time to collect additional evidence. The AAO will grant an extension to file a brief only where good cause is shown. 8 C.F.R. § 103.3(a)(2)(vii). Moreover, regardless of counsel’s failure to show cause for a late-filed brief, careful review of the record reveals no subsequent submission of a brief or evidence; all of the documentation in the record predates the issuance of the notice of decision. Accordingly, the record is considered complete.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part: “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.”

Counsel's statement on the Form I-290B reads:

Respondent believes [sic] that she has clearly established her eligibility for the benefit sought. The case law and regulations on the subject would lead a reasonable fact-finder overwhelming evidence of extreme cruelty, battery, good moral character and a good faith marriage.

Counsel's statement sets forth the petitioner's disagreement with the director's decision but does not identify specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal. Merely disagreeing with the director's conclusions, without specifically addressing the director's findings, is not sufficient for purposes of this appeal. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The assertions of counsel do not constitute evidence. *Matter of Obaighbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Thus, the regulations mandate the summary dismissal of the appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

The petition will be denied and the appeal dismissed for the reasons detailed in the director's decision, with each considered as an independent and alternative basis for the decision. 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 appeal is summarily dismissed.