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U.S. Citizenship  
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FILE:

EAC 06 163 51555

Office: VERMONT SERVICE CENTER

Date:

SEP 14 2009

IN RE:

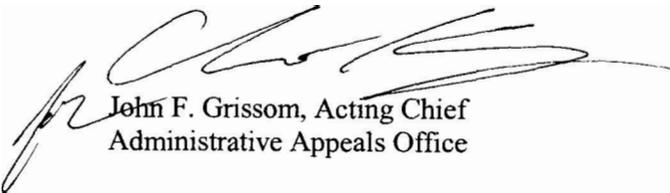
PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the  
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.



John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the immigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on motion to reopen or reconsider. The petitioner's submission will be rejected as untimely filed.

In order to properly file a motion to reopen or reconsider, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the complete motion within 30 days after service of the unfavorable decision, except that failure to file before this period expires may be excused in the discretion of U.S. Citizenship and Immigration Services (USCIS) where it is demonstrated that the delay was reasonable and beyond the control of the petitioner. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The AAO issued its decision on February 10, 2009. The petitioner's motion was not properly filed until April 28, 2009, 77 days after the decision was issued. Accordingly, the motion was untimely filed, and the petitioner has not demonstrated that the delay was reasonable and beyond her control.

As the motion was untimely filed, it must be rejected.

**ORDER:** The motion is rejected.