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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: APR 30 2010

EAC 08 194 50019

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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. The matter is now before the Administrative 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 June 30, 2008, the petitioner filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. The record includes a copy of a decree dissolving the petitioner’s marriage to the claimed abuser on January 14, 2005. On August 24, 2009, the director denied the petition determining that the petitioner had not established a qualifying relationship with the claimed abuser as the petitioner had been divorced for more than two years when the petition was filed. On September 21, 2009, the petitioner filed a Form I-290B, Notice of Appeal or Motion, and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. In a letter dated September 11, 2009 and received by United States Citizenship and Immigration Services (USCIS) on September 14, 2009, counsel for the petitioner indicated: that the petitioner sought an extension of time while her case is on appeal; that the petitioner would file her appeal on September 18, 2009; and that the petitioner sought an 180 day extension.

Neither counsel nor the petitioner provided a reason for the request for an extension of time and the record does not include any subsequently submitted documentation addressing the petitioner’s qualifying relationship with the claimed abuser or eligibility for immigrant classification based on the qualifying relationship. Thus, 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.”

As the petitioner does not provide further evidence or argument that establishes the director’s decision was based on a misunderstanding of the facts of the matter or that the director misinterpreted the law, the appeal must be summarily dismissed. Neither counsel nor the petitioner identifies specifically any erroneous conclusions of law or statements of fact made by the director as a basis for the appeal. The AAO is without further probative evidence or argument to evaluate regarding the petitioner’s failure to establish essential elements of eligibility for this benefit. The petitioner’s failure to specifically address



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the director's findings and present evidence and argument identifying the director's erroneous conclusions of law or statements of fact mandate the summary dismissal of the appeal.

The petition will be denied for the stated reasons set out in the director's 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.