

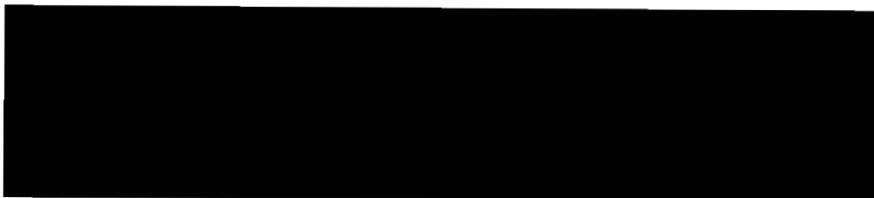
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



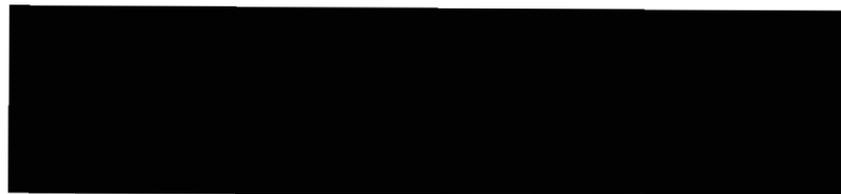
B9

FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: **AUG 06 2010**

IN RE: Petitioner: [Redacted]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Khew
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 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).

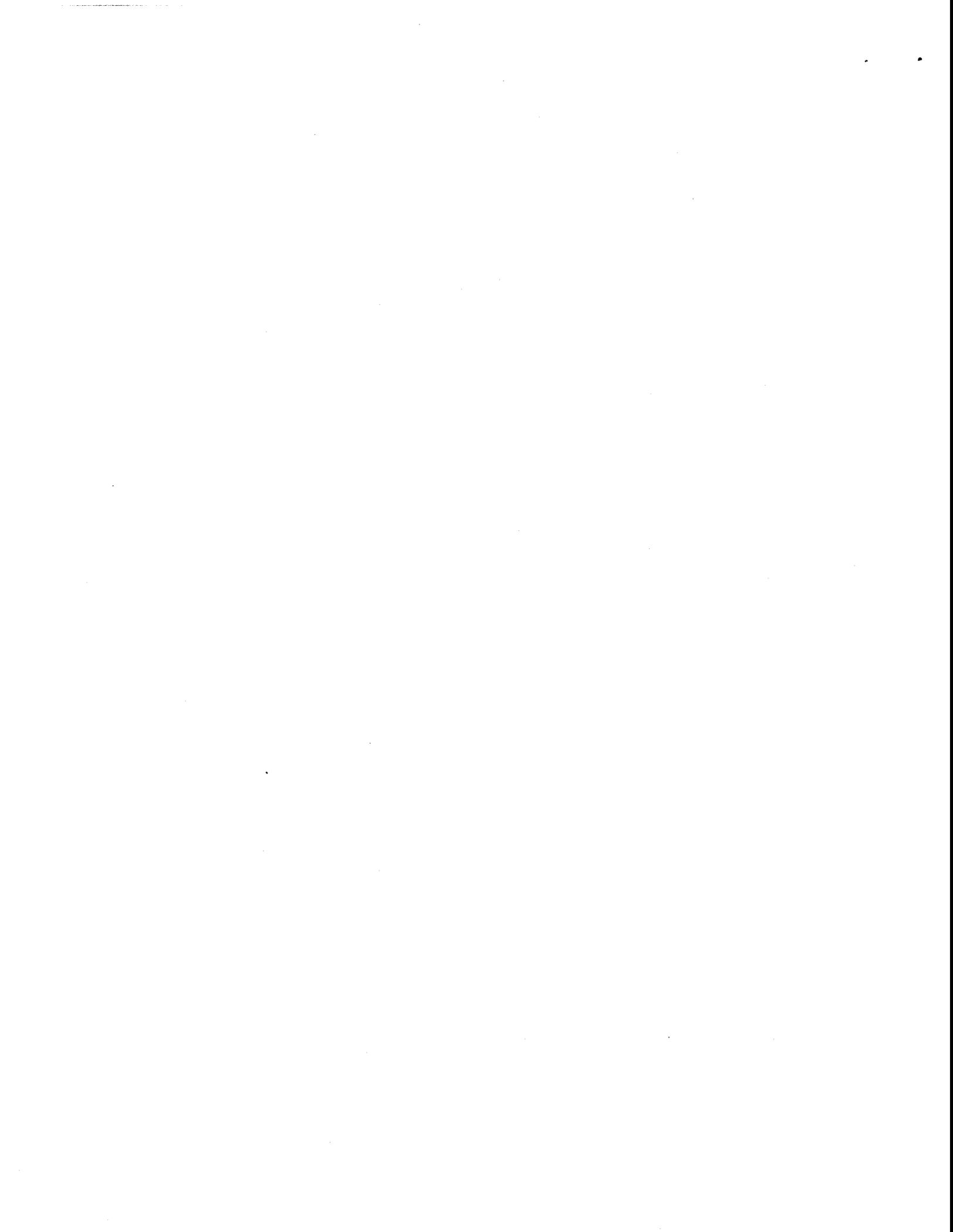
The director denied the petition, after determining that the applicant had not established that she had been subjected to battery or extreme cruelty by her United States citizen spouse.

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 for the petitioner timely submits a Form I-290B, Notice of Appeal or Motion. Counsel checked the box on the Form I-290B indicating that she is filing an appeal and that her brief and/or additional evidence would be submitted to the AAO within 30 days. To date, no supplemental brief and/or additional evidence has been submitted. The record is considered complete.

In a statement on the Form I-290B, counsel asserts that United States Citizenship and Immigration Services (USCIS) failed to consider the events and circumstances surrounding the petitioner's marriage. Counsel contends that USCIS dismissed as insignificant the fact that the petitioner's former spouse was a drug user, burglarized homes to support his habit and stole household possessions from the couple's shared residence. Counsel claims that the petitioner's inability to control her husband's criminal actions amounted to mental cruelty and that her spouse's verbal abuse was tantamount to mental cruelty.

Upon review of the director's decision in this matter, the AAO notes that the director reviewed the documents in the file, including the information the petitioner submitted in response to his request for further evidence. The director specifically addressed the petitioner's claim that her spouse's drug use, his criminal activity, his removing items from their shared residence without permission, and derogatory name calling and requests for money, and found that the behavior as described did not constitute battery or extreme cruelty as set out in the statute and regulation. The director concluded, based on the record, that the petitioner had not submitted sufficient probative evidence to



demonstrate that she had been subjected to battery or extreme cruelty by her United States citizen spouse. The AAO agrees.

On appeal, counsel, although disagreeing with the director's ultimate decision, does not provide any further evidence or argument to support the petitioner's claim of eligibility for this benefit. Counsel does not identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. Accordingly, the appeal must be summarily dismissed.

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.

