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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
EAC 09 017 50419

Date: **AUG 13 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 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 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 he had a qualifying relationship with a United States citizen or lawful permanent resident.

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.”

The petitioner timely submits a Form I-290B, Notice of Appeal or Motion. The petitioner notes that his statement and additional evidence are attached. On the Form I-290B, the petitioner references his first Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, filed December 8, 2005. The petitioner asserts that the Form I-360 filed December 8, 2005 was filed within two years following the legal termination of his marriage on August 10, 2005. The petitioner requests that the Form I-360 filed October 15, 2008 that is the subject of this appeal be approved. The record on appeal does not include a supplemental brief or probative additional evidence. The record is considered complete.

The AAO observes that the petitioner’s December 8, 2005 Form I-360 petition was denied on February 13, 2007 and that the AAO dismissed a subsequently filed appeal on May 18, 2007. On May 25, 2007, the petitioner filed a second Form I-360 that was subsequently denied on June 13, 2008 based upon the abandonment of the petition. Upon review of the director’s decision in this matter, the AAO finds that the director properly determined that the petitioner had not established a qualifying relationship with the claimed abusive spouse when the petition was filed. The AAO agrees that the petitioner has not established a qualifying relationship with the claimed abusive spouse as the petitioner’s marriage to the claimed abusive spouse was legally terminated on August 10, 2005.

On appeal, although the petitioner disagrees with the director’s ultimate decision, the petitioner does not provide any further evidence or argument to support his claim of eligibility for this benefit. The

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petitioner 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.