

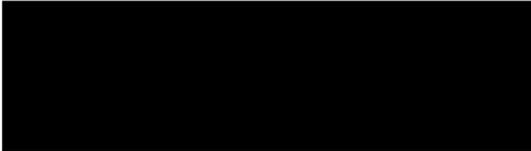
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office, MS 2090
Washington, DC 20529-2090



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



B9

FILE: [REDACTED] Office: VERMONT SERVICE CENTER

Date: DEC 27 2010

IN RE: Petitioner: [REDACTED]

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

ON BEHALF OF PETITIONER:

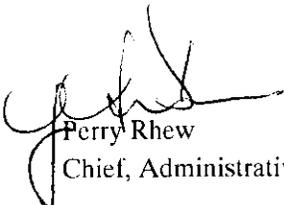


INSTRUCTIONS:

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 the \$630 fee. 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. On appeal, the Administrative Appeals Office (AAO) remanded the matter for further action. The matter is now before the AAO upon certification of the director's subsequent, adverse decision. The decision of the director will be affirmed and the petition will be denied.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1154(a)(1)(B)(ii), as an alien battered or subjected to extreme cruelty by a United States citizen.

Section 204(a)(1)(B)(ii) 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 203(a)(2)(A) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(B)(ii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(B)(ii)(II).

Section 204(a)(1)(J) of the Act states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

As the facts and procedural history have been adequately documented in the May 14, 2007 decision of the director and the director's September 29, 2010 certification decision, we will repeat only certain facts as necessary here. In this matter, the director initially denied the petition on May 14, 2007, finding that the petitioner failed to respond to the director's Notice of Intent to Deny (NOID) the petition and, therefore, that the petitioner failed to establish her eligibility for immigrant classification. In the AAO's March 3, 2009 decision on appeal, the AAO remanded the petition for issuance of a NOID. Upon remand, the director issued a NOID on March 27, 2009, which informed the petitioner of the deficiencies in the record and afforded her the opportunity to submit further evidence to establish the requisite qualifying relationship, eligibility for immigrant classification, residence, abuse, good moral character, and good faith marriage. As no other response to the NOID was submitted, the director denied the petition on September 29, 2010, certified the matter to the AAO for review, and notified the petitioner that she could submit a brief to the AAO within 30 days of service of the director's decision. To date, no further submission has been received. Accordingly, the record is considered to be complete as it now stands.

Upon review, we concur with the director's determination. The relevant evidence submitted below was discussed in the previous decisions of the director, which is incorporated here by reference. The petitioner has submitted no further evidence since the issuance of that decision. Consequently, the

petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act and her petition must be denied.

The petition will be denied for the reasons stated above, with each considered as an independent and alternative basis for denial. 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. Accordingly, the May 14, 2007 and September 29, 2010 decisions of the director are affirmed and the petition remains denied.

ORDER: The director's decisions of May 14, 2007 and September 29, 2010 are affirmed. The petition remains denied.