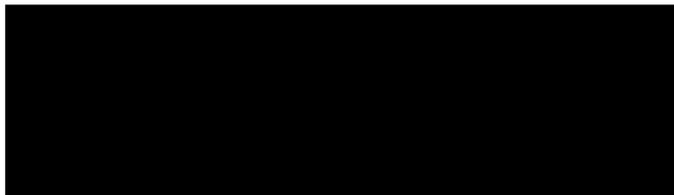


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
**PUBLIC COPY**

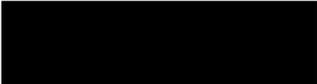
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090

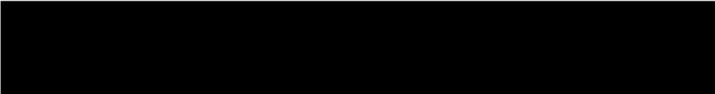


U.S. Citizenship  
and Immigration  
Services



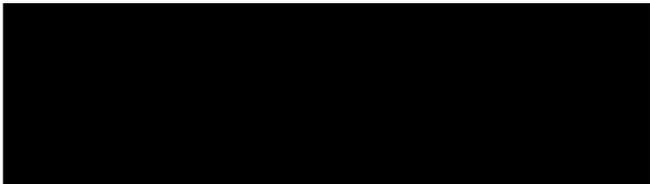
B9

FILE:  Office: VERMONT SERVICE CENTER Date: DEC 28 2010

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:

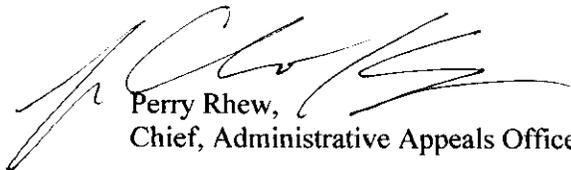


INSTRUCTIONS:

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 service center director denied the immigrant visa petition and the Administrative Appeals Office (AAO) remanded a subsequent appeal to the director for entry of a new decision. The director has denied the petition and certified his decision to the AAO for review. The director's decision will be affirmed.

The petitioner seeks immigrant classification under 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.

The director denied the petition on July 9, 2007 on the basis of his determination that the petitioner had failed to establish that he shared a joint residence with J-P-,<sup>1</sup> his United States citizen wife, that J-P- subjected him to battery or extreme cruelty during their marriage; and that he married her in good faith. The petitioner appealed the director's decision to the AAO and, in our June 3, 2009 decision, we agreed with the director's analysis. However, although we agreed with the director's reasoning, we remanded the petition to the director on technical grounds for issuance of a notice of intent to deny (NOID) the petition in accordance with the regulation then in effect at 8 C.F.R. § 204.2(c)(3)(ii).<sup>2</sup>

The director issued the requisite NOID on February 24, 2010. As no response to the NOID was submitted, the director denied the petition on August 26, 2010, and certified his decision to the AAO for review. The director notified the petitioner that he had 30 days to submit a brief or other written statement for our review on certification. As no further documentation has been received from counsel or the petitioner, the AAO deems the record complete as it now stands.

The petitioner has not established that he shared a joint residence with J-P-; that she subjected him to battery or extreme cruelty during their marriage; and that he married her in good faith. Consequently, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act, and his petition must remain denied.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4). The petitioner has not sustained that burden and we will affirm the director's decision denying the petition.

**ORDER:** The director's August 26, 2010 decision is affirmed. The petition remains denied.

---

<sup>1</sup> Name withheld to protect individual's identity.

<sup>2</sup> On April 17, 2007, U.S. Citizenship and Immigration Services (USCIS) promulgated a rule related to the issuance of requests for evidence and NOIDs. 72 Fed. Reg. 19100 (April 17, 2007). The rule became effective on June 18, 2007, after the filing of this petition on June 23, 2006.