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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  
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Services**

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER  
EAC 08 098 50508

Date: **FEB 24 2010**

IN RE: Petitioner: [REDACTED]

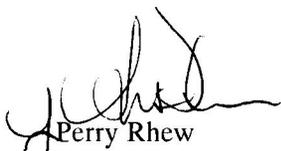
PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the  
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

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).

The director denied the petition on June 25, 2009, determining that the petitioner had not established that he had been subjected to battery or extreme cruelty by his spouse or that he had entered into the marriage in good faith.

Counsel for the petitioner timely submits a Form I-290B, Notice of Appeal. Counsel also submits an additional affidavit signed by [REDACTED] the petitioner's friend, which is dated August 13, 2009. The affiant states that he has known the petitioner for more than six years and has known the petitioner's wife since they were married in September 2004. The affiant states that he found them to be a loving married couple. The affiant also states that in or about October or November 2007 the petitioner's wife started drinking and he noticed a change in the couple's relationship. The affiant states further that the petitioner received phone calls from his wife in the affiant's presence and during the phone calls the petitioner's wife verbally abused the petitioner. The affiant also notes that the petitioner told him of fights that the couple had.

The record does not contain further information or evidence submitted on appeal. 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."

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 additional affidavit provided on appeal does not provide the detailed information necessary to demonstrate that the petitioner was a victim of battery or extreme cruelty as defined in the regulation or statute. Neither does the affidavit provide evidence or information that establishes the petitioner's intent upon entering into the marriage.

The affidavit submitted on appeal is insufficient to form a basis of appeal. 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 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 evidence has been considered and has been found to be insufficient and inadequate to establish that the petitioner in this matter suffered battery or extreme cruelty perpetrated by the petitioner's spouse and that the petitioner entered into the marriage in good faith.

Inasmuch as neither counsel nor the petitioner identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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.