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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

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69

FILE:

Office: VERMONT SERVICE CENTER Date:

SEP 22 2010

IN RE: Petitioner:



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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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)(iv) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1154(a)(1)(A)(iv), as an alien battered or subjected to extreme cruelty by his United States citizen stepparent.

Section 204(a)(1)(A)(iv) of the Act provides that an alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act and who resides, or has resided in the past, with the citizen parent may file a petition with the [Secretary of Homeland Security] under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the [Secretary of Homeland Security] that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent.

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 director denied the petition, determining that the petitioner had not established that he had resided with the United States citizen or lawful permanent resident stepparent, that he had been subjected to battery or extreme cruelty perpetrated by the United States citizen or lawful permanent resident stepparent, or that he is a person of good moral character. The petitioner timely submits a Form I-290B, Notice of Appeal or Motion. On the Form I-290B, the petitioner indicates that his brief and/or additional evidence is attached. The petitioner re-submits documentation previously provided which included an incomplete order of protection issued against the petitioner's stepparent. As the director noted, the order of protection did not include the petitioner's name. On appeal, the petitioner includes the missing page of the order of protection and the statement of the petitioner's biological father in support of the order of the order of protection. The complete order of protection does not reference the petitioner at all and as the director observed, the petitioner's biological father indicated on the order of protection petition that the petitioner did not reside with him. The petitioner also submitted a November 13, 2008 complaint for harassment that his biological father made against the petitioner's stepparent. The complaint does not reference the petitioner. The petitioner's statement on the Form I-290B, reads:

This explanation is to certify that [the petitioner] is a minor applying as the son of a victim of domestic violence and we have sent all the documents (see attachment).

The petitioner does not provide any information on appeal establishing that he resides or resided with his biological father and his stepparent. The AAO observes that the petitioner indicated on the Form

I-360, Petition for Amerasian, Widow(er) or Special Immigrant, that he did not reside with the claimed abusive stepparent. The petitioner does not provide any information on appeal that establishes that he was subjected to battery or extreme cruelty by his stepparent. The AAO observes that the complete order of protection and the complaint of harassment do not include the petitioner as a victim of harassment or in need of an order of protection. The petitioner does not provide any evidence establishing that he is a person of good moral character. As the director determined, the petitioner was over the age of 14 when he filed the Form I-360 petition and thus must submit evidence of his good moral character.

The director in this matter reviewed the documents in the file, including the information the petitioner submitted in response to his request for further evidence. Upon review of the totality of the evidence in the record, the director determined that the petitioner had not submitted probative evidence to demonstrate that he had resided with the United States citizen or lawful permanent resident stepparent, that he had been subjected to battery or extreme cruelty by his United States citizen or lawful permanent resident stepparent, or that he is a person of good moral character. As the petitioner does not provide any further pertinent evidence or argument on appeal to support his claim of eligibility for this benefit and does not identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, 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.