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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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FILE:



Office: VERMONT SERVICE CENTER

Date: JAN 07 2011

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:

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 \$630. 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 matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

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 citizen of the United States.

The petitioner filed the instant Form I-360 on July 7, 2009. On October 21, 2009, the director denied the petition, on the basis of his determination that the petitioner had failed to establish that his wife subjected him to battery or extreme cruelty during their marriage. The petitioner, through counsel, filed a timely appeal.

The regulation at 8 C.F.R. § 103.2(a)(1) states, in pertinent part, the following:

General. Every application, petition, appeal, motion, request, or other document submitted on any form prescribed by this chapter . . . must be filed with the location and executed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter I requiring its submission. . . .

The instructions to the Form I-290B, Notice of Appeal or Motion,¹ specifically state, at page two, that the form must be signed. Moreover, the regulation at 8 C.F.R. § 103.2(a)(2) states, in pertinent part, the following:

Signature. An applicant or petitioner must sign his or her application or petition By signing the application or petition, the applicant or petitioner . . . certifies under penalty of perjury that the application or petition, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct. . . .

The Form I-290B was not signed. Accordingly, the appeal has not been properly filed pursuant to 8 C.F.R. § 103.2(a)(2). The appeal, therefore, must be rejected.

The regulation at 8 C.F.R. § 292.4(a) states, in pertinent part, the following:

An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case When an appearance is made by a person acting in a representative capacity, his or her personal appearance or signature shall constitute a representation that under the provisions of this chapter he or she is authorized and qualified to represent. . . .

¹ The instructions to the Form I-290B are available online at <http://www.uscis.gov/files/form/i-290binstr.pdf> (accessed December 22, 2010).

Although the appeal was filed by counsel, and the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative was signed at Part 1 by the petitioner, counsel did not sign the Form G-28. Counsel, therefore has not complied with 8 C.F.R. § 292.4(a) and he will not receive separate notice of this proceeding.

As the appeal was not properly filed, it must be rejected. As counsel did not submit a properly executed Form G-28, he will not receive separate notice of this proceeding.

ORDER: The appeal is rejected.