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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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



B9

Date: JUN 03 2011 Office: VERMONT SERVICE CENTER FILE: [Redacted]

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:  
[Redacted]

**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 and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The regulation at 8 C.F.R. § 292.4(a) requires the filing of a Form G-28, Notice of Entry of Appearance as Attorney or Representative, with the filing of a Form I-290B, Notice of Appeal or Motion and states, in part:

An appearance must be filed on the appropriate form as prescribed by DHS by the attorney or accredited representative appearing in each case. The form must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS. The appearance will be recognized by the specific immigration component of DHS in which it was filed until the conclusion of the matter for which it was entered. *This does not change the requirement that a new form must be filed with an appeal filed with the Administrative Appeals Office of USCIS.* (Emphasis added.)

The instructions to the Form I-290B also reinforce the requirement to file a new Form G-28 with an appeal or motion. At page 2, the instructions state: "Form G-28, Notice of Entry of Appearance as Attorney or Representative, must be attached if signed by a legal representative." The instructions go on to state further that an attorney or representative must submit a Form G-28 with the appeal or motion and failure to do so will result in the dismissal or rejection of the appeal or motion.

When filing the Form I-290B on behalf of the petitioner, counsel failed to submit a properly executed Form G-28. The AAO transmitted a facsimile to counsel on May 12, 2011, informing him of the requirement to submit a properly executed Form G-28, Notice of Entry of Appearance by an Attorney or Representative. Counsel responded by sending a photocopy of a G-28 form already in the record, which was signed by the petitioner on August 20, 2007.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) states that, if an appeal is filed by an attorney or representative without a properly executed Form G-28 entitling that person to file the appeal, the appeal is considered improperly filed. Accordingly, as the appeal was improperly filed, it must be rejected.

**ORDER:** The appeal is rejected. The petition remains denied.