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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 22 2011** OFFICE: VERMONT SERVICE CENTER

FILE:

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:

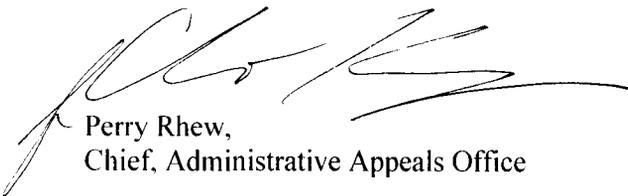
SELF-REPRESENTED

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. On appeal, the Administrative Appeals Office (AAO) remanded the matter for further action. The matter is now before the AAO upon certification of the director's subsequent, adverse decision. The decision of the director will be affirmed and the petition will remain denied.

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 director denied the petition because the petitioner failed to establish that his wife subjected him to battery or extreme cruelty during their marriage. The AAO concurred with the director's decision, but remanded the petition for issuance of a Notice of Intent to Deny (NOID) in compliance with the former regulation at 8 C.F.R. § 204.2(c)(3)(ii) (as in effect at the time the petition was filed).

Upon remand, the director issued a NOID on February 23, 2010. In response to the NOID, the petitioner submitted a personal [REDACTED] and an affidavit from [REDACTED]. The director determined that the petitioner's response did not overcome the basis for denial. Specifically, the director found that that the timing of the incidents alleged in the petitioner's affidavit was internally inconsistent. Further, the director found that the petitioner's newly-raised claim that his wife cut his wrist with a knife was not credible because this alleged incident was not discussed in the petitioner's previous documentation, and only raised after the petition was denied. Additionally, the director determined that the petitioner's claim that he did not report his wife's abuse to the police for fear of deportation conflicted with [REDACTED] statement that he discouraged the petitioner from calling the police because the petitioner's wife is a Christian. The director denied the petition accordingly, and certified the matter to the AAO for review on [REDACTED]. On certification, the petitioner submitted: a [REDACTED] and previously-submitted documents of record.

Here, the petitioner has not overcome the director's determination that his wife did not subject him to battery or extreme cruelty during their marriage. In response to the NOID, the petitioner claimed for the first time that his wife cut his wrist with a knife during an altercation a few months after he submitted his green card application. The petitioner stated that about a month after the knife incident, his wife took away his house key because she was upset that he went shopping with a friend. He claims that his wife then threw him out of the apartment in approximately [REDACTED]. Because the record reflects that the petitioner filed for adjustment of status on [REDACTED] the claimed time line for the alleged incidents is inconsistent. Although the petitioner claims in his statement on certification that "all the dates [were] m[e]ss[ed] up" because of his depressed and anxious state, the petitioner did not explain why the knife injury was not mentioned in his medical records, and he has provided no explanation for his initial failure to raise this issue in his previous statements. Accordingly, this new claim of abuse is entitled to little weight.

The remaining relevant evidence fails to establish the petitioner's claim because neither he, nor [REDACTED] has described any other incidents of abuse in probative detail. The petitioner is

consequently ineligible for immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Act, and his petition must remain denied.

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 director's February 3, 2011 decision is affirmed. The petition remains denied.