

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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**



**PUBLIC COPY**



B9

Date: **MAY 02 2011** Office: VERMONT SERVICE CENTER



IN RE: Petitioner: 

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)

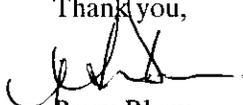
ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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.

Thank you,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, 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 matter will be remanded to the director for reissuance of his February 3, 2011 decision to the address of the petitioner's current counsel, as it appears on the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, which was signed by counsel on March 24, 2010, and submitted with additional evidence in response to the director's February 23, 2010 Notice of Intent to Deny (NOID).

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).

Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J) states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

As the facts and procedural history have been adequately documented in the previous decision of the AAO, we will repeat certain facts only as necessary here. In this case, the director initially denied the petition on March 3, 2008, finding that the petitioner failed to establish that she had a qualifying relationship as the spouse of a U.S. citizen, that she was eligible for immigrant classification based upon that relationship, that she resided with her spouse, that she had been subjected to battery or extreme cruelty by her spouse, and that she had entered into the marriage in good faith. In the AAO's July 17, 2009 decision on appeal, the AAO concurred with the director's findings. The AAO, however, remanded the petition for issuance of a Notice of Intent to Deny (NOID), as required by the regulation then in effect at 8 C.F.R. § 204.2(c)(3)(ii)(2006).<sup>1</sup> Upon remand, the director issued a NOID on February 23, 2010, which informed the petitioner of the deficiencies in the record and afforded her the opportunity to submit further evidence to establish the requisite qualifying

---

<sup>1</sup> On April 17, 2007, U.S. Citizenship and Immigration Services (USCIS) promulgated a rule related to the issuance of requests for evidence and NOIDs. 72 Fed. Reg. 19100 (Apr. 17, 2007). The rule became effective on June 18, 2007, *after* the filing and adjudication of this petition.

relationship, eligibility for immigrant classification based upon that relationship, joint residence, abuse, and good-faith entry into the marriage. The petitioner, through counsel, responded to the NOID with additional evidence. The director denied the petition on February 3, 2011, finding that the petitioner failed to establish the requisite qualifying relationship, eligibility for immigrant classification based upon that relationship, joint residence, abuse, and good-faith entry into the marriage. The director certified his decision to the AAO for review. As the director did not mail his February 3, 2011 decision to counsel, the matter will be remanded to the director to re-mail the decision to counsel's current address.

**ORDER:** The matter is remanded to the director for reissuance of his February 3, 2011 certified decision.