

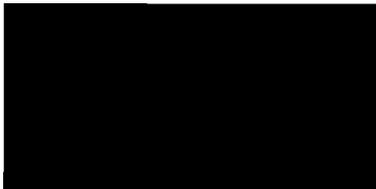
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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



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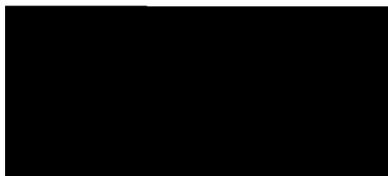
DATE: **APR 03 2012** Office: VERMONT SERVICE CENTER

File: 

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:

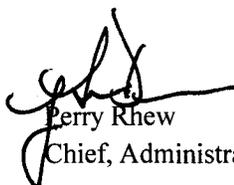


INSTRUCTIONS:

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.

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 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 remain denied.

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.

The director denied the petition, after determining that the petitioner had not established he had been subjected to battery or extreme cruelty perpetrated by the United States citizen or that he was eligible for immigrant classification based on a qualifying relationship.

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.

Counsel for the petitioner timely submitted a Form I-290B, Notice of Appeal or Motion, on May 23, 2011, checking the box on the Form I-290B indicating that a supplemental brief and/or additional evidence would be submitted to the AAO within 30 days. To date no further evidence or information has been submitted. The record is considered complete.

Upon review of the record, the director in this matter set out the deficiencies in the evidence that the petitioner previously submitted, and we concur with the director’s assessment of the relevant evidence. The AAO finds the director applied the proper standard determining that the petitioner had not submitted probative testimony or other evidence establishing that he was subjected to battery or extreme cruelty as that term is defined in the statute, regulation, and case law. The petitioner does not address the deficiencies in the evidence noted by the director. While the director’s use of the terms “marital tensions and incompatibility” was unnecessary, we find no error in the director’s ultimate determination that the behavior of the petitioner’s spouse did not constitute battery or extreme cruelty.

The record also includes a copy of a divorce decree terminating the marriage on February 25, 2010, almost four months prior to the petitioner filing the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, on June 14, 2010. As the petitioner has not established he was subjected to battery or extreme cruelty perpetrated by the United States citizen spouse, the petitioner has also not established a qualifying relationship when the petition was filed; thus the petitioner has not established that he is eligible for immigrant classification based on the qualifying relationship.

Upon review, the petitioner fails to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. Accordingly, the appeal must be summarily dismissed pursuant to the regulation at 8 C.F.R. § 103.3(a)(1)(v).

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. The petition remains denied.