

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: **DEC 07 2012**

Office: VERMONT SERVICE CENTER FILE: 

IN RE: Self-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:

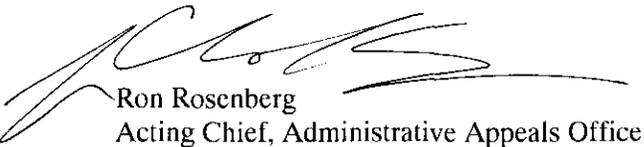
SELF-REPRESENTED

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center director (the director) denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

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 United States citizen.

The director denied the petition for failure to establish that the petitioner's spouse subjected her to battery or extreme cruelty during their marriage.

The petitioner stated on the Notice of Appeal (Form I-290B) that the director erred by using an improper evidentiary standard in evaluating the evidence, and that she would submit a brief to the AAO in support of her claims within thirty days. In her brief, the petitioner stated that she entered into her marriage with good intentions, and that any inconsistencies in her evidence were caused by her state of mind, which she described as unstable due to her marital relationship. The petitioner asked the AAO to reconsider the director's decision based upon humanitarian considerations and the fact that eight years of her life were wasted as a result of her marital relationship.

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. 8 C.F.R. § 103.3(a)(1)(v).

In his August 28, 2012 denial decision, the director specified the inconsistencies in the record and explained why the relevant evidence failed to establish that the petitioner was subjected to battery or extreme cruelty during her marriage. Although she disagrees with the director's ultimate determinations, the petitioner fails to identify any specific, erroneous conclusion of law or statement of fact in the director's decision. Consequently, the appeal must be summarily dismissed.¹

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.

¹ The director issued a letter to the petitioner, dated November 19, 2012, notifying her that her appeal was untimely filed on October 2, 2012; however, the director was incorrect. First, the appeal was received by the director on October 1, 2012, not October 2, 2012. Second, the petitioner was required to submit her appeal within thirty-three days of the director's August 28, 2012 decision, which would have been September 30, 2012. As September 30, 2012 fell on a Sunday, the director's receipt of the appeal on October 1, 2012 was timely. See definition of *day* at 8 C.F.R. § 1.2 (“[w]hen the last day of the period computed falls on a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.”)