

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 20 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:

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 with the field office or service center that originally decided your case by filing a 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 Director, Vermont Service Center (“the director”), denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and affirmed its decision upon granting the petitioner’s motion to reconsider. The matter is now again before the AAO on a second motion to reconsider. The motion will be dismissed. The appeal will remain dismissed and 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 for failure to establish that the petitioner had a qualifying relationship with a U.S. citizen spouse because the petition was filed more than two years after their divorce. The director also noted that the record did not contain sufficient evidence to establish that the petitioner is a person of good moral character, resided with her former spouse, and that her former spouse subjected her to battery or extreme cruelty during their marriage. On January 5, 2011, the AAO dismissed the petitioner’s appeal. The AAO determined that the petitioner failed to establish that she had a qualifying relationship with a U.S. citizen spouse and her eligibility for immediate relative classification based upon that relationship. The AAO also found that the petitioner did not establish that she is a person of good moral character and was battered or subjected to extreme cruelty by her former spouse. The AAO, in its January 12, 2012 decision, granted the petitioner’s motion, but affirmed its previous decision. The matter is now before the AAO on a second motion to reconsider. On the present motion, the petitioner reiterates her assertion that the delay in filing her petition was due to ineffective assistance of counsel. She also reiterates her assertions that she was subjected to extreme cruelty by her former spouse and is a person of good moral character.

A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The petitioner’s submission fails to meet the requirements for a motion to reconsider. The petitioner in her statement only reiterates her previous claims that she received ineffective assistance of counsel, was subjected to extreme cruelty during her marriage, and is a person of good moral character. The petitioner does not cite precedent decisions to establish that the AAO’s prior decision incorrectly applied the pertinent law or agency policy. Nor does she show that the AAO’s prior decision was erroneous based on the evidence of record at the time. Consequently, the motion to reconsider must be dismissed. *See* 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be dismissed).

ORDER: The motion is dismissed. The January 12, 2012 decision of the Administrative Appeals Office is affirmed and the appeal remains dismissed.