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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

PUBLIC COPY



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Date: **JAN 12 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:

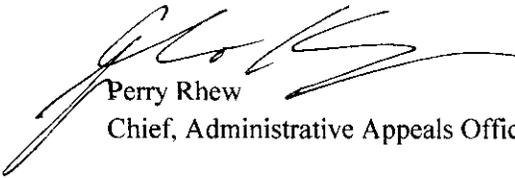
SELF-REPRESENTED

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 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 the \$630 fee. 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 (“the director”), denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The petitioner then filed a motion to reopen and reconsider. The AAO granted the motion and affirmed its decision to dismiss the appeal. The matter is now again before the AAO on a second motion to reopen and 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 on the basis of his determination that section 204(c) of the Act, 8 U.S.C. § 1154(c), barred approval of the petition because the petitioner attempted or conspired to enter into a prior marriage for the purpose of evading the immigration laws. In its September 10, 2010 decision dismissing the appeal, the AAO affirmed the director’s determination that section 204(c) of the Act barred approval of the petition and further determined that the petitioner was ineligible for immediate relative classification. The AAO, in its March 3, 2011 decision, granted the petitioner’s motion, but affirmed its previous decision. The matter is now before the AAO on a second motion to reopen and reconsider. On the present motion, the petitioner again asserts that he was the unwitting victim of immigration fraud and that he “provided clear and convincing evidence of the fraud perpetrated by [REDACTED].” The petitioner contends that he “did not perpetrate a fraud, attempted, or conspire to defraud the US Immigration or any of its counterparts.”

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). 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 has not submitted affidavits or other documentary evidence to meet the requirements of a motion to reopen. The petitioner’s submission also fails to meet the requirements for a motion to reconsider. The petitioner in his statement only reiterates his previous claims that he was the victim of fraud perpetrated by [REDACTED]. 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 he show that the AAO’s prior decision was erroneous based on the evidence of record at the time. Consequently, the motion to reopen and 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 March 3, 2011 decision of the Administrative Appeals Office is affirmed and the appeal remains dismissed.