

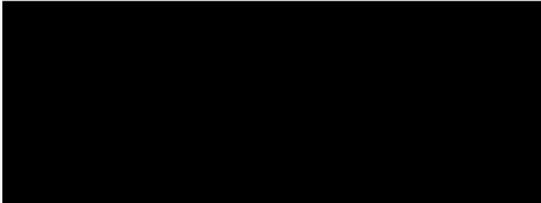
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

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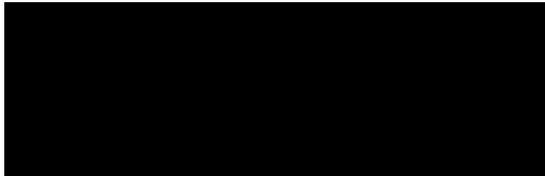
DATE: **JAN 25 2012** OFFICE: VERMONT SERVICE CENTER

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:

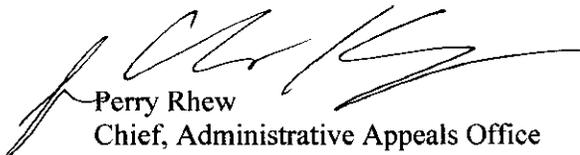


INSTRUCTIONS:

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 service center director denied the immigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a motion to reopen. The motion will be dismissed. The petition will remain denied.

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 citizen of the United States.

The director denied the petition on September 20, 2010, on the basis of his determination that that the petitioner had failed to establish: (1) that he shared a joint residence with his wife; (2) that his wife subjected him to battery or extreme cruelty during their marriage; and (3) that he married his wife in good faith. We dismissed counsel's subsequent appeal on August 2, 2011. Counsel filed the instant motion to reopen on September 2, 2011 and submitted a four-sentence statement made on the Form I-290B, Notice of Motion, asserting that the petitioner had unspecified evidence of abuse that was not previously available and would be submitted within 30 days. Counsel did not address the other two grounds for denial of the petition. Counsel also submitted a brief letter requesting an additional 60 days during which to submit additional evidence. The regulations do not permit the subsequent filing of supporting evidence and we have received no further correspondence from counsel.

Counsel's submission does not qualify as a motion to reopen. The regulation at 8 C.F.R. § 103.5(a)(2) states, in pertinent part, the following:

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. . . .

As counsel does not state any new facts to be provided or submit any affidavits or other documentary evidence, her submission does not qualify as a motion to reopen. The regulation at 8 C.F.R. § 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed." As such, the motion will be dismissed, the proceedings will not be reopened, and the prior decision of the AAO will be affirmed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The motion is dismissed. The August 2, 2011 decision of the Administrative Appeals Office is affirmed and the appeal remains dismissed.