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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 26 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:

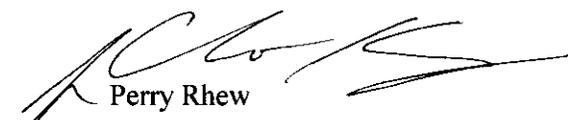
SELF-REPRESENTED

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, denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and affirmed its decision upon granting two subsequent motions to reopen and reconsider its decision. The AAO dismissed the petitioner's third motion to reopen and reconsider as untimely filed. The matter is now before the AAO on a fourth motion to reopen and reconsider. The motion will be dismissed. The appeal will remain dismissed.

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.

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).

A motion to reopen or reconsider must be filed within 30 days of the adverse decision. 8 C.F.R. § 103.5(a)(1)(i). If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). The regulations further require that a motion be submitted "to the office maintaining the record upon which the unfavorable decision was made for forwarding to the official having jurisdiction." *Id.* at § 103.5(a)(1)(iii)(E). A motion that does not meet the applicable requirements shall be dismissed. *Id.* at § 103.5(a)(4).

The filing deadline may be excused for motions to reopen in the discretion of U.S. Citizenship and Immigration Services (USCIS) only "where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner." 8 C.F.R. § 103.5(a)(1)(i).

The AAO dismissed the petitioner's third motion to reopen and reconsider its decision because the motion was untimely filed and the petitioner failed to demonstrate that the delay was reasonable and beyond the control of the petitioner.

On the present motion, the petitioner asserts that her prior motion was untimely because she initially submitted it without a signature. She states that she forgot to sign the motion because she is "very down" and under a lot of stress. The petitioner states that her native country of the Ivory Coast is in a civil war and her mother is a refugee in Liberia. The petitioner submits a copy of a 2011 volunteer card from the United Nations Children's Fund ( UNICEF), but she does not indicate how this card relates to her motion.

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 does not cite precedent decisions to establish that the AAO's prior

decision to dismiss the motion as untimely 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 reopen and reconsider must be dismissed.

**ORDER:** The motion is dismissed.