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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**



Bq

DATE: **JUL 13 2012**

Office: VERMONT SERVICE CENTER

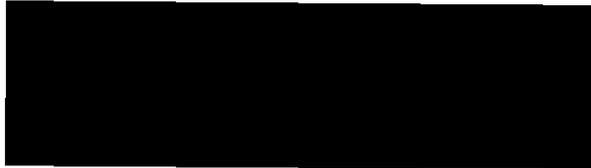
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IN RE:

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:

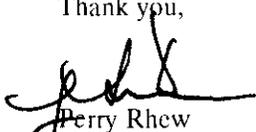


**INSTRUCTIONS:**

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 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,

  
Perry Rhew

Chief, Administrative Appeals Office

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

The director denied the petition, after determining that the petitioner had not established she had been subjected to battery or extreme cruelty perpetrated by the USC spouse or that she had entered into the marriage in good faith.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part:

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.

Counsel for the petitioner timely submitted a Form I-290B, Notice of Appeal or Motion, on December 2, 2011, and attached a supplemental brief. The record is considered complete. Counsel asserts that the director misunderstood the dates two particular incidents occurred and erroneously found an inconsistency in the petitioner’s statements. Counsel also references the petitioner’s statement and documentary evidence previously submitted to establish a bona fide marriage. Counsel avers that the petitioner did not begin living with the claimed abusive USC four months prior to the marriage and that the couple married on August 28, 2009.

Upon review of the record, the director in this matter set out the deficiencies in the evidence that the petitioner previously submitted, and we concur with the director’s assessment of the relevant evidence. While counsel has provided a different perspective regarding the inconsistency noted by the director, we find no error in the director’s ultimate determination that the behavior of the petitioner’s spouse did not constitute battery or extreme cruelty. The director applied the proper standard when determining that the petitioner had not submitted probative testimony or other evidence establishing she had been subjected to battery or extreme cruelty as that term is defined in the statute, regulation, and case law. Counsel’s attempt to clarify a couple of dates regarding alleged incidents of abuse does not rectify the lack of specific information in the petitioner’s brief statement regarding the circumstances of the claimed abuse. As the director determined, the petitioner’s statement and the statements of others on her behalf do not provide probative, consistent testimony or information regarding the surrounding circumstances of the alleged incidents sufficient to ascertain that the petitioner was subjected to behavior that constitutes battery or extreme cruelty as that term is defined in the statute, regulation, and case law.

Similarly, the director considered the petitioner’s testimony and the statements of others on her behalf, as well as the documentary evidence submitted regarding the petitioner’s intent when entering into the marriage. The director set out the deficiencies in the evidence submitted. Counsel does not address the deficiencies and inconsistencies noted in the record. For example,

as noted by the director the lease submitted to show the couple lived together is signed April 15, 2009; however, the petitioner states that she married the claimed abusive spouse on August 28, 2009, a statement confirmed by the marriage certificate. Counsel's indication on appeal that the petitioner and her spouse did not reside together until after their marriage does not explain the joint lease signed April 15, 2009, four months prior to the marriage. However, it is not just the lack of a valid lease or other documentary evidence that fails to establish the petitioner's intent when entering the marriage; it is primarily the lack of the petitioner's testimony regarding her courtship, wedding ceremony, shared residence, and other experiences that fail to establish her intentions when entering into the marriage.

Upon review, counsel for the petitioner fails to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. The record on appeal does not include evidence or argument sufficient to overcome the director's determination that the petitioner did not establish she was subjected to battery or extreme cruelty perpetrated by the USC spouse or that she married the USC spouse in good faith as required by section 204(a)(1)(A)(iii)(I) of the Act. Accordingly, the appeal must be summarily dismissed pursuant to the regulation at 8 C.F.R. § 103.3(a)(1)(v).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is summarily dismissed. The petition remains denied.