

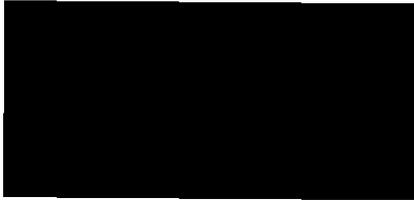
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



Bq.

DATE: Office: VERMONT SERVICE CENTER FILE:

JUL 18 2012



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)

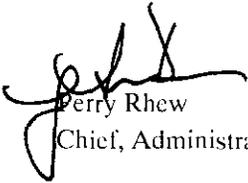
ON BEHALF OF PETITIONER:

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.

Thank you,


Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director of the 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 rejected. 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).

On September 16, 2010, the petitioner filed a Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The director subsequently denied the petition determining that the petitioner had not established that she been subjected to battery or extreme cruelty perpetrated by the USC spouse. On February 6, 2012, an attorney filed a Form I-290B, Notice of Appeal or Motion, to appeal the director’s adverse decision and attached a brief. The attorney attached a Form G-28, Notice of Entry of Appearance as Attorney or Representative, dated July 13, 2010, along with the appeal filing.¹

On June 29, 2012, the AAO sent a facsimile to the attorney requesting that he submit a properly executed Form G-28 within seven days. On the facsimile, the AAO informed the attorney that re-submitting a previous Form G-28 is insufficient. In response, the attorney re-submitted the July 13, 2010 dated Form G-28.

The regulation at 8 C.F.R. § 292.4(a) governs appearances by attorneys or representatives. It states, in pertinent part: “A notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service.” Here, the record on appeal does not include a properly filed Form G-28. An appeal that is filed without a properly executed Form G-28 is considered an improperly filed appeal and it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).²

Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, the burden of proof is upon the petitioner to establish eligibility for the benefit she is seeking. Here, the petitioner has not met her burden. Accordingly, the AAO rejects the appeal.

ORDER: The appeal is rejected. The petition remains denied.

¹ In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a), as well as the instructions to the Form I-290B, a “new [Form G-28] must be filed with an appeal filed with the Administrative Appeals Office.” This regulation applies to all appeals filed on or after March 4, 2010. See 75 Fed. Reg. 5225 (Feb. 2, 2010).

² The AAO also notes the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), which provides that an appeal may be considered properly filed as of its original filing date only if the attorney or representative submits a properly executed Form G-28 entitling that person to file the appeal.