

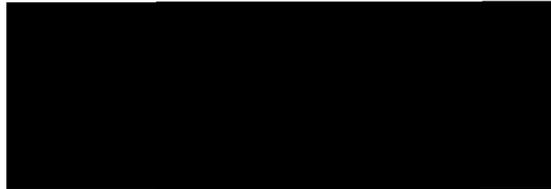
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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

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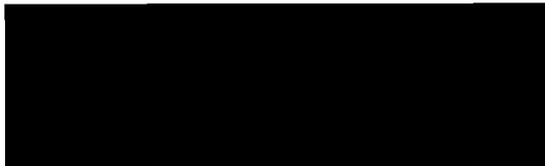
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Date: **MAR 12 2012** Office: VERMONT SERVICE CENTER File:

IN RE:

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 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 Vermont Service Center Director (the director) denied the immigrant visa petition (Form I-360) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot because the applicant is presently a conditional permanent resident of the United States. The matter will be returned to the director for further action.

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 United States citizen.

The director denied the petition because the petitioner failed to establish that her spouse subjected her to battery or extreme cruelty during their marriage. On appeal, the petitioner submits a brief and a letter from her landlord.

The petitioner is a citizen of Kenya who entered the United States as a nonimmigrant student on August 16, 1995. On April 16, 2005, she married a U.S. citizen [REDACTED]. The petitioner's spouse filed a Petition for Alien Relative (Form I-130) on the petitioner's behalf in conjunction with the petitioner's application to register permanent residence or adjust status, which were approved and on January 25, 2007, the petitioner was admitted to the United States as a conditional lawful permanent resident. On January 20, 2009, the petitioner and her husband filed a joint Petition to Remove Conditions on Residence (Form I-751). In a letter dated July 22, 2010, counsel requested withdrawal of the Form I-751.

The regulation at 8 C.F.R. § 216.4(a) provides that an alien's conditional permanent resident status is automatically extended upon receipt of a properly filed Form I-751 and that conditional permanent resident status continues until such time that the Form I-751 is adjudicated. *See Matter of Nwokoma*, 20 I&N Dec. 899, 904 (BIA 1994) (the agency retains jurisdiction over the Form I-751 and the alien retains conditional permanent residence status until the petition is adjudicated).

Although counsel requested withdrawal of the Form I-751, the record shows that the joint petition remains pending before the Vermont Service Center. As the Form I-751 has not been adjudicated or terminated, the petitioner continues to hold conditional permanent resident status and further pursuit of the matter at hand is moot. Consequently, the appeal will be dismissed and the matter returned to the director for further processing.

ORDER: The appeal is dismissed as moot because the petitioner remains a conditional lawful permanent resident. The matter is returned to the Vermont Service Center director for further action in accordance with the foregoing discussion.