

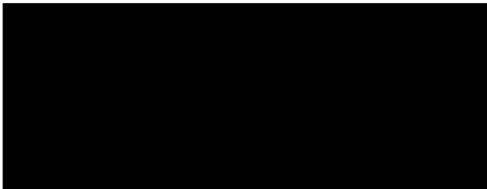
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: **MAR 15 2012** Office: VERMONT SERVICE CENTER

FILE: 

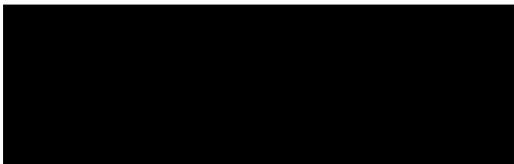
IN RE:

Petitioner 

PETITION:

Petition for Immigrant Abused Child Pursuant to Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iv)

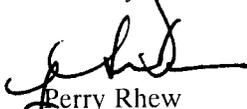
ON BEHALF OF PETITIONER:



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.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition and the Administrative Appeals Office (AAO) withdrew the director's decision in part and affirmed the director's decision in part. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be granted. The appeal will be sustained and the petition will be approved.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iv), as an alien battered or subjected to extreme cruelty by his United States citizen stepparent.

The director denied the petition for failure to establish a qualifying relationship with a U.S. citizen parent because the petitioner's mother and former stepfather divorced before the petition was filed. The director also found that the petitioner did not establish that his former stepfather's abuse was one central reason for his failure to file his petition before his twenty-first birthday. On appeal, the AAO withdrew the director's determination that the petitioner had not established a qualifying relationship with the U.S. citizen stepparent but determined that the record did not include sufficient evidence that the petitioner's former stepfather's abuse was one central reason for his failure to file this petition prior to his twenty-first birthday. On motion, the petitioner provides a statement detailing the circumstances of his relationship and his family's relationship with the U.S. abuser on and after his twenty-first birthday.

To establish eligibility for the late-filing provision at section 204(a)(1)(D)(v) of the Act, a petitioner need not show that the abuse was the only cause for the delay. Rather, to establish that a stepparent's abuse was "at least one central reason for the filing delay," the petitioner must demonstrate, by a preponderance of the relevant, credible evidence, a nexus between the abuse and the filing delay that is more than incidental or tangential. The petitioner's testimony on motion and the totality of the evidence in the record is sufficient to establish that one central reason for the petitioner's failure to file his petition prior to his twenty-first birthday was his former stepfather's abuse. The petitioner is consequently eligible for the late-filing waiver at section 204(a)(1)(D)(v) of the Act.

Conclusion

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 been met.

ORDER: The motion is granted. The AAO's August 18, 2011 decision is withdrawn and the appeal is sustained. The petition is approved.