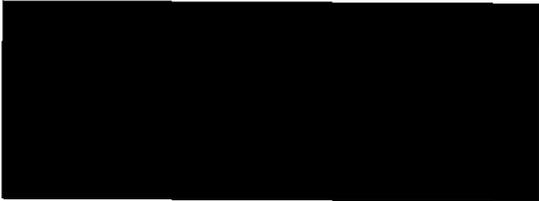


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



B9

Date: **NOV 21 2012** Office: VERMONT SERVICE CENTER File:

IN RE: Self-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 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 in accordance with the instructions on 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 request 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 that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

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 for failure to establish the requisite battery or extreme cruelty. Specifically, the director explained how the relevant evidence was not sufficient to satisfy the petitioner's burden of showing that her husband subjected her to battery or extreme cruelty during their marriage. The director further noted that even if the petitioner's statements had been deemed credible, the description of alleged abuse did not indicate that the petitioner was subjected to battery or extreme cruelty by her husband.

On appeal, counsel submits the Form I-290B, Notice of Appeal or Motion. On the form, counsel contends that "the adjudicator unreasonably rejected credible evidence submitted" and that the petitioner has provided "sufficient evidence that meet her particular circumstances." Counsel also claims that U.S. Citizenship and Immigration Services (USCIS) insisted on "restrictive and specific documents and evidence." Counsel concludes by requesting that the entire file be reviewed and the petition be immediately approved.

In this case, as in most visa petition proceedings, the petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Where USCIS can articulate a material doubt regarding the petitioner's eligibility, the agency may either request additional evidence or deny the application if the material doubt indicates that the claim is probably not true. *Id.* See also 8 C.F.R. § 103.2(b)(8)(iii).

For self-petitioning abused spouses and children, the statute further prescribes an evidentiary standard, which mandates that USCIS "shall consider any credible evidence relevant to the petition." Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J). See also 8 C.F.R. §§ 103.2(b)(2)(iii); 204.2(c)(2)(i). However, "the determination of what evidence is credible and the weight to be given that evidence shall be within the [agency's] sole discretion." *Id.* Accordingly, the mere submission of evidence that is relevant may not always suffice to establish the petitioner's credibility or meet the petitioner's burden of proof.

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. 8 C.F.R. § 103.3(a)(1)(v). In this case, counsel fails to identify any specific, erroneous conclusion of law or statement of fact in the director's decision. Counsel asserts that there was sufficient evidence submitted, but provides no legal or factual basis for the appeal. Consequently, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is summarily dismissed.