



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: APR 15 2013

Office: VERMONT SERVICE CENTER File: [REDACTED]

IN RE: Petitioner: [REDACTED]

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)

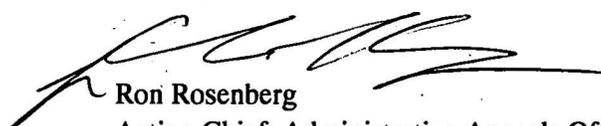
ON BEHALF OF PETITIONER:
[REDACTED]

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 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 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,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

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.

The director denied the petition on the basis of his determination that the petitioner had failed to establish that she resided with her husband during their marriage and entered into the marriage in good faith. The director also determined that the petitioner had failed to establish that her husband subjected her to battery or extreme cruelty during their marriage.

On appeal, the petitioner submits a brief statement on the Form I-290B Notice of Appeal asserting that she disagrees with the director’s decision that she failed to establish that she married her husband in good faith. She asserts that she has submitted all the documents that she had and that as an abused spouse, she had limited access to documentary evidence demonstrating her good-faith marital intentions. The petitioner did not address her claimed joint residence with her husband or his battery or extreme cruelty, the other two grounds for denial of her petition. Traditional forms of joint documentation are not required to demonstrate a self-petitioner’s eligibility under section 204(a)(1)(A)(iii) of the Act and any credible evidence relevant to the petition will be considered. See 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). Here however, the petitioner did not submit a brief on appeal or any additional statements, affidavits or other evidence. Although the petitioner indicated that a brief or additional evidence would be submitted to the AAO within 30 days, to date, over six months later, the AAO has not received any such brief or evidence from the petitioner or counsel. The petitioner’s brief statement on the Form I-290B does not identify any specific error of law or fact in the director’s decision and the appeal must consequently be summarily dismissed pursuant to the regulation at 8 C.F.R. § 103.3(a)(1)(v).

Beyond the director’s decision, the appeal is also moot because the petitioner was granted conditional permanent resident status as of June 26, 2006.¹ Although conditional permanent resident status technically ends upon its termination, the alien’s permanent resident status does not cease until the entry of a final administrative order removing the alien from the United States because an alien has the right to review such termination in removal proceedings. See *Matter of Stowers*, 22 I&N Dec. 605, 612 (BIA 1999). See also *Perez-Rodriguez v. I.N.S.*, 3 F.3d 1074, 1079 (7th Cir. 1993); *Etuk v. Slattery*, 936 F.2d 1433, 1447 (2d Cir. 1991) (citing *Matter of Gunaydin*, 18 I&N Dec. 326 (BIA 1982)). In addition, the definition of “lawfully admitted for permanent residence” at 8 C.F.R. § 1.2 provides that “[s]uch status terminates upon entry of a final order of exclusion, deportation, or removal.” In this case, the petitioner remains in removal proceedings before the San Francisco Immigration Court. Lawful permanent residency may also

¹ An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. See *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff’d*. 345 F.3d 683 (9th Cir. 2003).

be lost through abandonment, rescission, or relinquishment. *See matter of Gunaydin.* at 327 n.1. However, none of those circumstances exist in this matter. Because the petitioner's permanent residency has not been terminated through a final removal order, as of the date of this decision, she remains a lawful permanent resident and has already obtained the benefit she seeks through this petition. Consequently, the issues in this proceeding are moot and the appeal must be dismissed for this additional reason.

ORDER: The appeal is dismissed.