



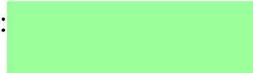
U.S. Citizenship  
and Immigration  
Services

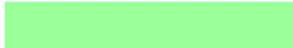
(b)(6)



DATE: **AUG 30 2013**

Office: VERMONT SERVICE CENTER

File: 

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:

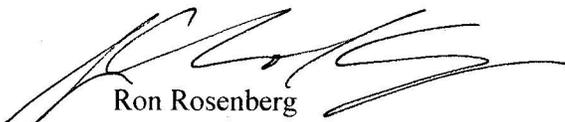
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (“the director”), denied the immigrant visa petition. The Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be dismissed. The appeal will remain dismissed and 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.

The director denied the petition for failure to establish the requisite battery or extreme cruelty, joint residence, or entry into the marriage in good-faith. The petitioner untimely filed an appeal, which the director treated as a motion to reopen and ultimately affirmed the denial. The AAO summarily dismissed the petitioner’s subsequent appeal on April 1, 2013.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The petitioner’s submission does not meet the requirements for a motion to reopen or a motion to reconsider. The petitioner submits a notarized declaration that is a duplicate of the statement he submitted below. The petitioner does not state new facts or provide additional evidence to establish that the AAO did not consider any credible evidence relevant to the petition in violation of the statute or regulations. Further, the petitioner does not establish that the AAO’s prior decision was based on an incorrect application of the relevant law or agency policy. The petitioner also fails to demonstrate that the AAO’s prior decision was incorrect based on the evidence of the record at the time of the initial decision. Consequently, the motion to reopen and the motion to reconsider must be dismissed. *See* 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be dismissed).

**ORDER:** The motion is dismissed. The April 1, 2013 decision of the Administrative Appeals Office is affirmed. The appeal remains dismissed and the petition remains denied.