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



U.S. Citizenship  
and Immigration  
Services

Date:

Office: VERMONT SERVICE CENTER File:

DEC 13 2013

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)

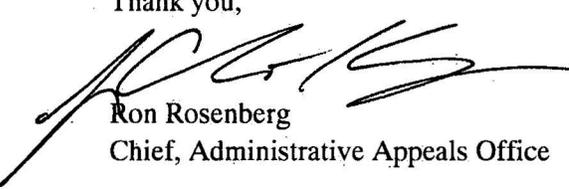
ON BEHALF OF PETITIONER:

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 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 because of failure to show that the petitioner had a qualifying relationship with the petitioner’s former U.S. citizen husband, and corresponding eligibility for immediate relative classification based on that relationship.

On appeal, counsel states that the director denied the petition solely because it was filed more than two years after the dissolution of the petitioner’s marriage to her alleged abuser. Counsel argues that the abuse inflicted on the petitioner included the petitioner’s former husband obtaining a divorce without the petitioner’s knowledge. Counsel contends that the divorce is invalid because the petitioner did not have notice of the divorce proceedings and the petitioner’s signature was forged. Counsel states that on July 13, 2011 the petitioner discovered from court records that the petitioner’s former husband filed for divorce in 2008 and obtained a final divorce order. Counsel argues that because the divorce was fraudulently obtained and without the petitioner’s knowledge, the petitioner should not be subject to the two-year filing requirement under section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act. That section states that an alien who has divorced an abusive United States citizen may still self-petition under this provision of the Act if she demonstrates “a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse.” 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(aa)(CC)(ccc).

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 dated April 15, 2013. The decree of divorce in the record reflects that the petitioner’s marriage legally terminated on January 12, 2009. Her Form I-360 petition was filed on January 27, 2012, three years after the divorce. While the record indicates that the divorce was obtained without the petitioner’s knowledge or consent, counsel has submitted no evidence that the court reopened the divorce case and set aside the judgment or otherwise invalidated the divorce decree. Consequently, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). The petitioner has not sustained that burden and the appeal will be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.