



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: JAN 09 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:

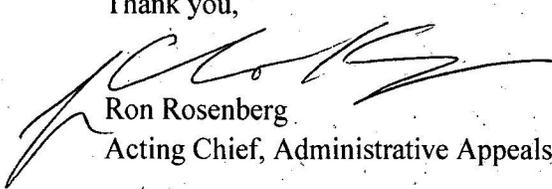
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office 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 Director, Vermont Service Center (the director), denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal.¹ The matter is now before the AAO on a motion to reopen. The motion will be granted. 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.

On December 29, 2010, the director denied the petition for failure to establish that the petitioner resided with her husband and entered into marriage with her husband in good faith. In its July 11, 2011, decision dismissing the appeal, the AAO concurred with the director's determination that the petitioner failed to establish joint residence and her entry into the marriage in good faith.

In our July 11, 2011 decision, incorporated here by reference, we fully discussed the pertinent facts and relevant evidence submitted below. Accordingly, we will only address the new evidence submitted after that decision was issued. On motion, the petitioner submits a letter in which she explains that her husband was a truck driver and that he did not want to change his driver's license for tax purposes. She also states that her husband was living another life with another woman and that he was a father figure for her son. The petitioner notes that because her husband worked long hours, he gave her permission to sign documents on his behalf, which is why the petitioner signed his name on their lease. The petitioner still fails to explain why there were two leases submitted with two different signatures. The letter submitted on motion does not overcome the deficiencies noted in the previous AAO decision, nor does it provide any additional relevant information or details that show that the petitioner entered into the marriage in good faith or resided with her spouse. As such, the petitioner has not demonstrated her entry into the marriage in good faith or joint residence. The petitioner is consequently ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

Conclusion

In these 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). Here, that burden has not been met. Upon reopening, the prior decisions of the AAO will be affirmed. The appeal will remain dismissed and the petition will remain denied.

ORDER: The appeal remains dismissed and the petition remains denied.

¹ The petitioner attempted to file a second appeal but it was rejected for lack of jurisdiction.