



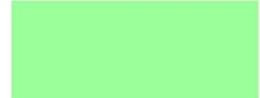
U.S. Citizenship
and Immigration
Services

(b)(6)

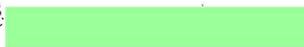


Date: JAN 22 2013

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:

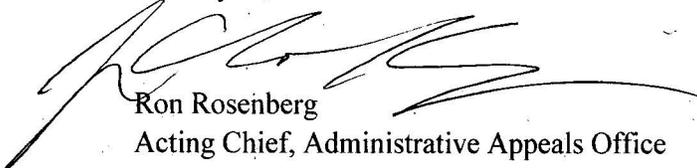


INSTRUCTIONS:

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 Director, Vermont Service Center (“the director”), denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to 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 that the petitioner entered into marriage with his wife in good faith and that she subjected him to battery or extreme cruelty during their marriage. In its September 26, 2011 decision dismissing the appeal, the AAO concurred with the director’s determination that the petitioner failed to establish his entry into the marriage in good faith and the requisite battery or extreme cruelty.

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 fails to meet the requirements for a motion to reconsider. On motion, the petitioner, through counsel, submits a brief and an affidavit from the petitioner. Counsel’s brief repeats much of the petitioner’s statements submitted on appeal and asserts that the AAO violated six legal sources. However, counsel merely lists these sources and does not articulate how the AAO violated them or otherwise incorrectly applied the pertinent law or agency policy. Nor does he show that the AAO’s prior decision was erroneous based on the evidence of record at the time. The petitioner’s affidavit reasserts his claim submitted below but does not establish that the AAO’s prior decision was based on an incorrect application of the relevant law or agency policy. The petitioner’s affidavit also fails to establish 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 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 September 26, 2011 decision of the Administrative Appeals Office is affirmed. The appeal remains dismissed and the petition remains denied.