



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: JUN 05 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,

Jon 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 as well as a motion to reconsider. The matter is now before the AAO on a second 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 was subjected to battery or extreme cruelty by his former wife during their marriage and that he married her in good faith. In its April 9, 2012 decision dismissing the appeal, the AAO found that the petitioner did not establish the requisite battery or extreme cruelty and good faith entry into his marriage. The AAO dismissed the petitioner’s subsequent motion to reconsider on October 3, 2012.

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 asserting only that the petitioner suffered from battery and extreme cruelty and does not address the petitioner’s good faith intentions upon marrying his former wife or demonstrate the bona fides of his marriage under the heightened standard of proof required by section 245(e)(3) of the Act. Counsel does not cite any binding precedent decisions or other legal authority establishing that the AAO’s prior decisions incorrectly applied the pertinent law or agency policy nor does counsel show that the AAO’s prior decision was erroneous based on the evidence of record at the time. 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 prior decisions of the Administrative Appeals Office are affirmed. The appeal remains dismissed and the petition remains denied.