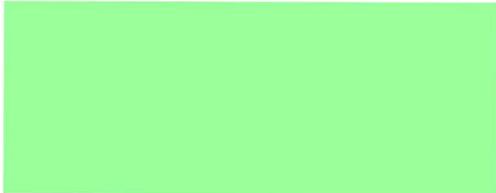




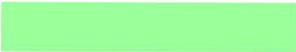
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **AUG 22 2014**

Office: VERMONT SERVICE CENTER File: 

IN RE: Petitioner: 

PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(ii)

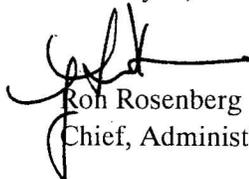
ON BEHALF OF PETITIONER:



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”), originally revoked approved of the immigrant visa petition after proper notice. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and affirmed its decision in response to the petitioner’s last four motions filed on this matter. The matter is again before the AAO on a fifth motion to reopen and reconsider. The motion will be dismissed. The previous decisions will be affirmed. Approval of the petition will remain revoked.

The petitioner seeks immigrant classification pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii), as an alien battered or subjected to extreme cruelty by his U.S. lawful permanent resident spouse during his marriage.

Section 205 of the Act, 8 U.S.C. § 1155, permits U.S. Citizenship and Immigration Services (USCIS) to, at any time, revoke the approval of a petition approved under section 204 of the Act for good and sufficient cause.

The director revoked the approval of the instant Form I-360 petition on May 1, 2009, because the record reflected that the petitioner had a prior marriage that he did not disclose, and had failed to provide evidence that his prior marriage was terminated when he married M-E.¹ The director determined that the petitioner did not establish any of the requirements of section 204(a)(1) of the Act. In our June 1, 2010 decision on appeal, we withdrew the director’s finding that the petitioner lacked moral character, but concurred with the director’s determination that the petitioner did not establish that he had a qualifying relationship as the spouse of a United States citizen, and that he is eligible for immigrant classification based on that relationship. We also concurred with the director’s determination that because the petitioner did not establish that he was legally free to marry M-E- he had not established the remaining requirements of section 204(a)(1) of the Act. In our September 27, 2010, March 28, 2012, and December 30, 2013 decisions, we granted the petitioner’s motion to reopen and reconsider and affirmed our initial June 1, 2010 decision. Our previous decisions are incorporated here by reference.

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).

In this motion, counsel contends that the petitioner consistently stated on appeal and in prior motions that the petitioner mistakenly indicated in the DOS Optional Form (OF) 156, Nonimmigrant Visa Application, that he was married. However, the record shows that the petitioner not only checked the “married” box on the OF-156, but he also wrote in the name of his spouse and the place of their marriage. Counsel asserts that the petitioner previously “provided substantial records and proofs . . . that he never married prior to his marriage to his ex-wife, [M-E-],” but counsel’s assertions do not suffice in light of the evidence that the petitioner did not just check an incorrect box on the OF-156; he provided both a name and place of marriage to support his assertions regarding his marital status.

¹ Name withheld to protect the individual’s identity.

Counsel repeats the same facts that were previously stated in the second and fourth motions, and does not state any new facts or provide additional evidence. Counsel also does not cite to binding case law or otherwise establish that our prior decisions were based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, as required for a motion to reconsider at 8 C.F.R. § 103.5(a)(3). Accordingly, the motion to reopen and 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 June 1, 2010, September 27, 2010, March 28, 2012, and December 30, 2013 decisions of the Administrative Appeals Office are affirmed. The appeal remains dismissed and the petition's approval remains revoked.