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



U.S. Citizenship
and Immigration
Services

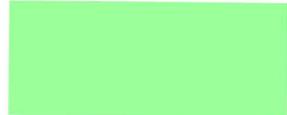


Date:

AUG 29 2014

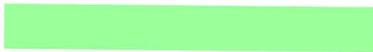
Office: VERMONT SERVICE CENTER

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 (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,

A handwritten signature in cursive script, appearing to read "Ron Rosenberg".

⌘ Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Vermont Service Center director (“the director”) denied the immigrant visa petition and 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 for failure to establish that the petitioner resided with his United States citizen spouse, entered into marriage with his wife in good faith, and was battered or subjected to extreme cruelty by his wife during their marriage.

In the appeal notice, counsel asserts that the director erred in law and fact in reaching her decision. Counsel states that the petitioner’s wife “is the one who has to go forward with the wedding and other matters,” and that the petitioner “was verbally and mentally abused by his spouse . . . [she] delayed the parties getting married and after the marriage she refused to file his immigration document.” Counsel contends that the director’s decision “should not be based only on what the [petitioner] stated, but on what abuse [was inflicted upon the petitioner.]” No brief or additional argument or evidence was submitted on appeal.

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).

Review of the record reveals that the director assessed all of the relevant evidence, including the affidavits from the petitioner and his friends discussing the claimed abuse, in finding that the petitioner failed to establish that he was battered or subjected to extreme cruelty by his wife during their marriage.¹ Counsel does not allege that the director overlooked any of the petitioner’s evidence. Counsel’s general statements on appeal do not identify any specific, erroneous conclusion of law or statement of fact in the director’s determination regarding the petitioner’s claim of battery or extreme cruelty during his marriage. In addition, counsel does not address the director’s two other

¹ The regulation under 8 C.F.R. § 204.2(c)(1) states, in pertinent part:

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase “was battered by or was the subject of extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner or the self-petitioner’s child and must have taken place during the self-petitioner’s marriage to the abuser.

grounds of denial, which are that the petitioner failed to establish that he resided with his wife, and entered into the marriage with her in good faith. As counsel does not specifically address the director's grounds for denial of the petition, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The petitioner bears the burden of proof to establish his eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). He has not met his burden and the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.