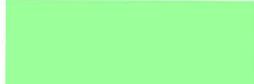


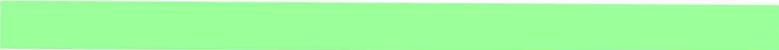


U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **SEP 04 2014**

Office: VERMONT SERVICE CENTER File: 

IN RE: Self-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)

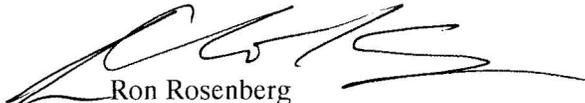
ON BEHALF OF PETITIONER:

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,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center acting director, (the director), revoked approval of the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed the subsequent appeal and affirmed its decision upon granting the petitioner's first motion to reconsider. The matter is now before the AAO on a second motion to reconsider. The motion to reconsider will be dismissed. The appeal will remain dismissed and approval of the petition will remain revoked.

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 her former spouse, a United States citizen.

The director revoked approval of the Form I-360 petition on September 27, 2012 because the petitioner divorced her abusive spouse and remarried another individual while her self-petition was pending. Consequently, she did not have a qualifying relationship to the abuser and was not eligible for immigrant classification based upon that relationship, as required by section 204(a)(1)(A)(iii)(I)(aa), (cc) of the Act. We dismissed the appeal on October 10, 2013 and affirmed our decision upon granting the petitioner's prior motion to reconsider on February 6, 2014.

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).

A pending spousal self-petition will be denied upon the self-petitioner's remarriage. 8 C.F.R. § 204.2(c)(1)(ii). The approval of a spousal self-petition will also be revoked upon the self-petitioner's remarriage. *See* 8 C.F.R. § 205.1(a)(3)(i)(E) (revocation upon remarriage prior to the self-petitioner's adjustment or entry on an immigrant visa based on the abusive relationship). In this case, the petitioner remarried while her self-petition was pending and her second marriage was not terminated until over a year after the self-petition was approved and nearly five months after that approval was revoked. The petitioner, through counsel, submits a brief with the same assertions made on his previous motion to reconsider. The majority of the brief submitted with this motion repeats verbatim the claims made in counsel's prior brief. Counsel again asserts that because the petitioner's second marriage was later annulled, it should not render her ineligible for immigrant classification based on her first marriage. Counsel does not cite any binding precedent decisions or other legal authority establishing that our prior decisions incorrectly applied the pertinent law or agency policy.¹

¹ As discussed in our previous decisions, no amendments to the original Violence Against Women Act (VAWA) statutory provisions at section 204 of the Act have expanded eligibility to self-petitioners who divorced their abusive spouses and remarried while their petitions were pending. *See Victims of Trafficking and Violence Protection Act of 2000 (VTVPA)*, Pub. L. 106-386, 9 (Oct. 28, 2000); *Violence Against Women and Department of Justice Reauthorization Act of 2005*, Pub. L. No. 109-162, (VAWA 2005); *Violence Against Women Reauthorization Act of 2013*, Pub. L. No. 113-4 (VAWA 2013). Accordingly, the petitioner's annulment does not negate the application of 8 C.F.R. §§ 204.2(c)(1)(ii), 205.1(a)(3)(i)(E).

Counsel reasserts that we must give Georgia's laws pertaining to annulments full faith and credit and that no "remarriage" exists because the petitioner's second marriage was annulled and has no legal effect according to Georgia law. Counsel repeatedly cites to the relation back doctrine as set forth in *Matter of Samedi*, 14 I&N Dec. 625 (BIA 1974). However, as discussed in our prior decisions, *Matter of Samedi* is not binding. See *Matter of Wong*, 16 I&N Dec. 87 (BIA 1977) (An annulment that was given retroactive effect by the state was not given retroactive effect for immigration purposes.); *Matter of Castillo-Sedano*, 15 I. & N. Dec. 445, 446 (BIA 1975) (The relation back doctrine cannot be applied blindly.). Further, counsel does not show that our prior decisions were 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 October 10, 2013 and February 6, 2014 decisions of the Administrative Appeals Office are affirmed. The appeal remains dismissed and the petitioner's approval remains revoked.