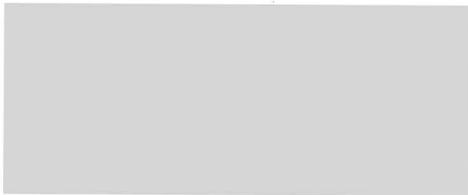




U.S. Citizenship
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Services

(b)(6)



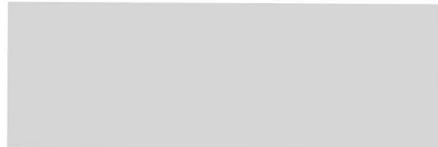
DATE: APR 17 2015

FILE #: [REDACTED]
PETITION RECEIPT #: [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:



INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center, (“the director”) denied the immigrant visa petition and certified her decision to the Administrative Appeals Office (AAO) for review. The director’s decision will be affirmed.

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 U.S. citizen spouse.

The director denied the petition for failure to establish that the petitioner entered into marriage with her husband in good faith and that they resided together. On appeal, the petitioner reasserted her eligibility and submitted additional evidence. We agreed with the director that the record did not establish that the petitioner entered into a good faith marriage and that she and her husband resided together. As the director denied the petition without first issuing a Notice of Intent to Deny (NOID) in compliance with the former regulation at 8 C.F.R. § 204.2(c)(3)(ii) (as in effect at the time the petition was filed), we withdrew the director’s decision and remanded the proceedings for the director to issue the NOID, and to enter a new decision.

On remand, the director issued a NOID to the petitioner on June 2, 2014 seeking additional evidence of the requirement that the petitioner entered into the marriage in good faith and resided jointly with her U.S. citizen spouse during their marriage. The petitioner failed to respond. The director subsequently denied the petition for reasons previously set forth and certified her decision to us.¹

The director’s Notice of Certification informed the petitioner that she had 30 days to submit a brief to the AAO. To date, we have received nothing further from the petitioner. As the director has corrected the procedural defects in the record, and the petitioner has neither responded to the director’s NOID nor the Notice of Certification, we affirm the director’s decision without further discussion, for reasons set forth in our decision dated June 29, 2013. The petitioner has not demonstrated that she entered into her marriage in good faith and has not demonstrated that she resided with her husband. Accordingly, based on the present record, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

The director’s decision will be affirmed and the petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for the denial. In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought.

¹ The director sent the NOID and the Notice of Certification to the petitioner through her attorney at his last address of record. The notice was not returned. Public databases reveal that the petitioner’s counsel has a new address, to which we are sending this decision.

(b)(6)

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NON-PRECEDENT DECISION

Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The director's Notice of Certification dated November 4, 2014, is affirmed. The petition remains denied.