

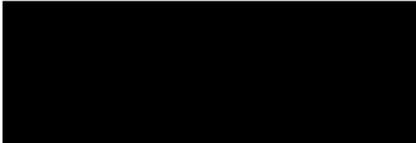


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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



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prevent clearly unwarranted
invasion of personal privacy

DEC 08 2002

FILE EAC 00 124 50816

Office: Vermont Service Center

Date:

IN RE: Petitioner:
Beneficiary:



APPLICATION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. 1154(a)(1)(A)(iii)

IN BEHALF OF PETITIONER: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is a native and citizen of Guatemala who is seeking classification as a special immigrant 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 the battered spouse of a United States citizen.

The director determined that the petitioner failed to submit evidence as had been requested to establish that she: (1) has resided in the United States with the citizen or lawful permanent resident spouse pursuant to 8 C.F.R. 204.2(c)(1)(i)(D); (2) is a person of good moral character pursuant to 8 C.F.R. 204.2(c)(1)(i)(F); (3) is a person whose deportation (removal) would result in extreme hardship to herself, or to her child pursuant to 8 C.F.R. 204.2(c)(1)(i)(G); and (4) entered into the marriage to the citizen or lawful permanent resident in good faith pursuant to 8 C.F.R. 204.2(c)(1)(i)(H). The director, therefore, denied the petition.

On appeal, the petitioner states that she did not respond to the Service inquiry because she did not receive any inquiry or correspondence from the Service. She further states that she had requested that all correspondence be sent to her address, and she does not understand why the inquiry and denial was sent to Ms. Odeni Moreno's address. The petitioner claims that Ms. Moreno never got in touch with her, and to this date, she has not been able to reach Ms. Moreno.

Because the petitioner submitted no evidence to establish that she has met the requirements of 8 C.F.R. 204.2(c)(1)(i)(D), (F), (G) and (H), she was requested on April 3, 2000, and again on June 7, 2000, to submit additional evidence. The director listed examples of evidence she may submit to establish eligibility. Because the petitioner failed to respond to the director's requests, the petition was denied on October 24, 2000.

While the petitioner claims on appeal that she did not receive the director's request although she requested that all correspondence be sent to her address, the record reflects that the petitioner requested, in Part 1 of the Form I-360 petition, that notices from the Service not be sent to her home, but rather, to be sent to [REDACTED] Main Street, Peabody, MA. There is no evidence in the record that the director's request was returned to the Service undelivered.

8 C.F.R. 103.2(b)(13) provides that if all requested initial evidence is not submitted by the required date, the application or

petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. 103.2(b)(15) provides that a denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under 8 C.F.R. 103.5.

An appeal was subsequently filed by the petitioner. There is no appeal of the director's decision in the present case. The appeal will, therefore, be rejected. If the applicant has additional evidence for the record, such documentation should be forwarded on a motion to reopen to the office having jurisdiction over the present application (the office which rendered the initial decision).

ORDER: The appeal is rejected.