



B9

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



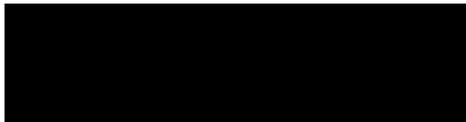
Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

FILE: 
EAC 00 070 50729

Office: Vermont Service Center

Date: DEC 08 2002

IN RE: Petitioner:
Beneficiary:



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

IN BEHALF OF PETITIONER:



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, and the case will be remanded for further action.

The petitioner is a native and citizen of Jamaica who is seeking classification as a special immigrant pursuant to section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1154(a)(1)(A)(iv), as the battered child of a citizen of the United States.

The director determined that the petitioner failed to submit evidence as had been requested to establish that he: (1) has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident parent while residing with that parent pursuant to 8 C.F.R. 204.2(e)(1)(i)(E); and (2) is a person of good moral character pursuant to 8 C.F.R. 204.2(e)(1)(i)(F). The director, therefore, denied the petition.

On appeal, counsel asserts that the petitioner did furnish additional evidence as had been requested. He submits a printout from the UPS indicating that mail was delivered to the Service on March 2, 2000. He resubmits the evidence.

Because the petitioner submitted insufficient evidence to establish that he has met the requirements of 8 C.F.R. 204.2(e)(1)(i)(E) and (F), he was requested on February 11, 2000 to submit additional evidence. The director listed examples of evidence he may submit to establish eligibility. No additional evidence was furnished. The director, therefore, denied the petition.

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. However, there is no appeal of the director's decision in the present case. The appeal will, therefore, be rejected. The applicant, however, has submitted additional documents for the record. Therefore, the case will be remanded to the director so that he may reopen the matter on a Service motion, and to adjudicate the petition supported by the documentation. The director shall enter a new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner, Examinations, for review.

ORDER: The appeal is rejected. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.