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U.S. Department of Justice  
Immigration and Naturalization Service

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MAY 31 2002

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
SUITE 300, 3rd Floor  
Washington, D. C. 20534



FILE: [Redacted]  
EAC 00 214 53119

Office: Vermont Service Center

Date: MAY 31 2002

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:



Identity of  
petitioner  
invasion of privacy

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*  
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 Nigeria 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) is the spouse of a citizen or lawful permanent resident of the United States; (2) has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; or is the parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; (3) is a person of good moral character; and (4) is a person whose deportation (removal) would result in extreme hardship to herself, or to her child. The director, therefore, denied the petition.

On appeal, counsel asserts that the director erred when he ruled that the petitioner had failed to demonstrate her eligibility for the benefit sought. He states that the petitioner reserves the opportunity to present additional grounds/evidence for the appeal. No additional evidence was included with the appeal.

Because the petitioner submitted insufficient evidence to establish that she has met the requirements of 8 C.F.R. 204.2(c)(2)(i)(A), (E), (F), and (G), she was requested on August 31, 2000, to submit additional evidence. The director listed examples of evidence she may submit to establish eligibility. On December 11, 2000, the petitioner was granted an extension of time in which to submit additional evidence. Because the petitioner failed to respond to the director's requests, the director denied the petition on April 10, 2001.

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.

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.