



B9

U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

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



FILE: [Redacted]
EAC 01 086 52959

Office: Vermont Service Center

Date: 30 OCT 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:



**identifying data deleted to
prevent disclosure of information
invasion of personal privacy**

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 Mexico 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 he: (1) 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, pursuant to 8 C.F.R. 204.2(c)(1)(i)(E); (2) is a person of good moral character pursuant 8 C.F.R. 204.2(c)(1)(i)(F); and (3) entered into the marriage to the citizen or lawful permanent resident in good faith pursuant 8 C.F.R. 204.2(c)(1)(i)(H). The director, therefore, denied the petition on November 7, 2001.

On appeal, counsel states that additional evidence and a brief will be submitted in support of the appeal within 60 days. It has been approximately six months since the filing of the appeal and no additional statement or evidence has been provided.

8 C.F.R. 103.3(a)(2) states, in pertinent part, that the affected party shall file an appeal, with fee, including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

Additionally, 8 C.F.R. 103.3(a)(2)(v)(B)(1), states:

An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The record reflects that the director denied the petition on November 7, 2001. Counsel forwarded the appeal to the AAO rather than to the Vermont Service Center (VSC), the office where the unfavorable decision was made. The AAO forwarded the appeal to the VSC on March 28, 2002. The appeal was properly filed, with fee, on April 2, 2002, the date the appeal was received at the VSC.

Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.