



B9

U.S. Department of Justice

Immigration and Naturalization Service

identifying data critical to  
prevent clearly unwarranted  
invasion of personal privacy

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



18 SEP 2002

FILE: [Redacted]  
EAC 01 201 51751

Office: Vermont Service Center

Date:

IN RE: Petitioner:  
Beneficiary:



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

IN BEHALF OF PETITIONER: Self-represented

PUBLIC COPY

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 Colombia who is seeking classification as a special immigrant pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1154(a)(1)(B)(ii), as the battered spouse of a lawful permanent resident of the United States.

The director determined that the petitioner failed to submit additional evidence as had been requested. The director, therefore, denied the petition based on abandonment.

On appeal, the petitioner states that it seems the Service's request for documentation was not sent to the proper address because she did not receive the request.

On July 30, 2001, the petitioner was requested to submit: (1) proof of the legal termination of her marriage to her prior spouse; (2) proof of the legal termination of the marriage of her spouse [REDACTED] to his first wife; (3) proof of [REDACTED] immigration status; and (4) evidence of the petitioner's good moral character. Because the petitioner failed to respond to the director's request, the petition was denied on December 5, 2001, based on abandonment pursuant to 8 C.F.R. 103.2(b)(13).

While the petitioner claims on appeal that she did not receive the director's request, 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 in care of LACSED, [REDACTED]. There is no evidence in the record that the director's request was returned to the Service undelivered, nor is there evidence that the petitioner requested that the Service use her home address in future correspondence.

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.