

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

B9



U.S. Citizenship
and Immigration
Services



FILE:  OFFICE: VERMONT SERVICE CENTER
EAC 02 001 50486

DATE: APR 09 2004

IN RE: Petitioner:
Beneficiary:



PETITION: 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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center on October 16, 2002. The petitioner appealed the director's denial to the Administrative Appeals Office (AAO). The matter is now before the AAO on appeal. The appeal will be rejected..

The petitioner is a native and citizen of the Dominican Republic 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 petitioner filed the Form I-360, Petition for Special Immigrant Status on September 24, 2001. The director issued a request for additional evidence from the petitioner on January 8, 2002. The petitioner responded by requesting additional time in which to respond to the request for additional evidence. On April 4, 2002, the director granted the petitioner an additional sixty days in which to respond. The director's correspondence to the petitioner was mailed to the petitioner's address of record, listed on the Form I-360. More than sixty days lapsed before the director made a decision on the petition. The petitioner failed to respond to the request for additional evidence. The director, therefore, denied the petition.

The regulation at 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.

The director denied the petition due to abandonment and thus the decision may not be appealed. The appeal must be rejected.

ORDER: The appeal is rejected.