



U.S. Citizenship  
and Immigration  
Services

37

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: AUG 6 2004

IN RE:

Petitioner:  
Beneficiary:

[REDACTED]

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:

[REDACTED]

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

Identifying data deleted to  
prevent disclosure of  
unwarranted  
invasion of personal privacy

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**DISCUSSION:** The preference visa petition was denied by the Acting Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner is a native and citizen of Ghana 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 acting director denied the petition due to abandonment, finding that the petitioner had failed to respond to her request for additional evidence. On appeal, new counsel for the petitioner indicated that he was enclosing a Form G-28 and would submit a brief within thirty days of filing the appeal. A new Form G-28 was not in the record, therefore, new counsel will not be substituted. More than four months have lapsed since the filing of the appeal and nothing more has been submitted for the record.

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.

As the director denied the petition due to abandonment, the decision was not properly appealed and must be rejected.

**ORDER:** The appeal is rejected.