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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Room A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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B9



FILE:



Office: VERMONT SERVICE CENTER

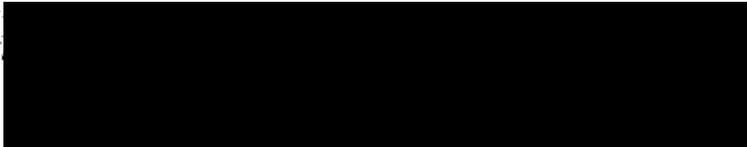
Date: DEC 14 2004

EAC 02 240 51162

IN RE:

Petitioner:

Beneficiary:



PETITION: 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)

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. An appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on motion. The motion will be dismissed as untimely filed.

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)(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.

In order to properly file a motion, the regulation at 8 C.F.R. § 105(a)(1)(i) provides that the motion to reopen and/or reconsider must be filed within 30 days of the decision that the motion seeks to reopen. If the decision is served by mail, three days are added to the prescribed period. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued the decision on December 18, 2003. The motion was received by Citizenship and Immigration Services (CIS) on May 15, 2004, or 149 days after the decision was issued. Accordingly, the motion was untimely filed.

As the motion was untimely filed, the motion must be dismissed.

ORDER: The motion is dismissed.