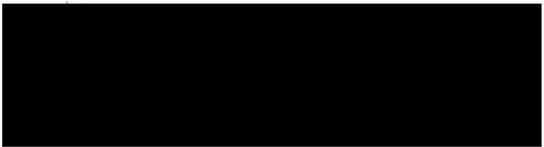


BA

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE: [REDACTED]
EAC 03 008 52398

Office: VERMONT SERVICE CENTER

Date: JUN 29 2004

IN RE: Petitioner [REDACTED]
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:

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.


Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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

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 director denied the petition, finding that: 1) the petitioner had failed to establish that he was eligible for immigrant classification under 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based upon his marriage to a citizen or permanent resident of the United States as he failed to submit evidence of the legal termination of the first marriage; and 2) the petitioner had failed to establish that he had been battered or subjected to extreme cruelty by his United States citizen wife. On appeal, the petitioner submitted his own brief statement and indicated that no appeal brief would be forthcoming.¹ The petitioner's statement in support of the appeal consisted of conclusory statements asserting that the director's decision was erroneous and claiming that evidence had been submitted documenting his divorce from his first wife and the mental anguish and cruelty perpetrated by his current wife.

The record of proceedings indicates that the petitioner initially entered the United States without inspection on or about November 1984. The petitioner was placed into removal proceedings on or about June 29, 1990, which resulted in a removal order being issued on March 8, 1991. Subsequent to the issuance of the order, the file reflects that the petitioner married his current wife, Luz Cortes, on May 13, 1994.² Ms. Cortes filed two different I-130s on the petitioner's behalf, the first on September 5, 1997, and the second on April 16, 2001. It appears that the latter petition was denied by the Service Center on June 24, 2002 in conjunction with a denial of the Form I-485 Application for Adjustment of Status filed by the petitioner for lack of prosecution.³ The earlier petition was subsequently terminated on October 29, 2002.

The petitioner filed Form I-360 Petition for Special Immigrant on or about October 8, 2002. The director denied the petition in a decision dated September 18, 2003, after finding that the petitioner had failed to submit sufficient evidence to establish that his previous marriage had been terminated, and that he had been subjected to battery and/or extreme mental cruelty.

The petitioner's appeal fails to address specifically the grounds for denial set forth in the decision of the director.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

¹ The record reflects Form G-28s (Notice of Entry of Appearance as Attorney or Representative) filed by filed two different attorneys. However, the Form I-290B (Notice of Appeal to the Administrative Appeals Unit) was submitted by the petitioner on his own behalf without the assistance of counsel and consequently this office is treating the petitioner as self-represented.

² The Form G-325A (Biographic Information) reflects that the petitioner married Giovanni Mora on July 17, 1987, in the Dominican Republic. According to the G-325A, the marriage was terminated on July 7, 1993.

³ The record reflects that the petitioner and his wife had repeatedly failed to appear for interviews at the district office.

The petitioner's statement in support of the appeal is conclusory and merely asserts that the requested evidence had been submitted and that he had established eligibility for the benefit sought.⁴

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.

⁴ While the petitioner asserts that he had submitted evidence documenting the termination of his first marriage, the petitioner curiously states, "[e]nclosed, please find documentation of my first marriage" and attaches a copy of the marriage certificate for his current marriage to Luz Cortes. This fails to address the director's decision. The AAO notes that the petitioner's alien file contains translated documents, apparently submitted in connection with the I-130 filed in 1997, which appear to be divorce documents from the civil authorities in the Dominican Republic. However, these documents were not offered in response to the Request for Evidence relating to the I-360 petition, nor have they been submitted on appeal or referenced by the petitioner. The AAO will not speculate as to the reasons why they have not been submitted by the petitioner or his former counsel. However, as they have not been offered as evidence in these proceedings, despite the director's request, they do not form part of the record considered by the AAO.