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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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39



FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: OCT 20 2004  
EAC 01 197 52044

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:



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*

*RP* Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Acting Director, Vermont Service Center denied the preference visa petition on October 23, 2003. The petitioner timely 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 Mexico 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 issued a request for additional evidence from the petitioner on May 22, 2003. The request for additional evidence was sent to the petitioner at the address listed on the Form I-360 application. The petitioner indicated on the Form I-360 that she wanted correspondence sent to her in care of her attorney of record. The director sent the request to the petitioner in care of her attorney of record. The petitioner failed to respond to the request for additional evidence; therefore, she denied the petition. On appeal, counsel for the petitioner asserts that the attorney of record did not receive the request for additional evidence; therefore, the petitioner should be given another chance to provide the requested documents.

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.