



U.S. Citizenship
and Immigration
Services

307



FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **OCT 27 2004**
EAC 03 081 52448

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for Special Immigrant Battered Child pursuant to Section 204(a)(1)(A)(iv) of the
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iv)

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

Robert P. Wiemann, Director
Administrative Appeals Office

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prevent disclosure of information granted
confidentiality

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center on September 4, 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 27-year old native and citizen of Mexico who is seeking classification as a special immigrant pursuant to section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iv), as the battered child of a United States citizen.

The director issued a request for additional evidence from the petitioner on March 26, 2003. The request for additional evidence was sent to the petitioner at the address listed on the Form I-360 application. The petitioner failed to reply to the request for additional evidence; therefore, the director denied the petition. On appeal, the petitioner submits additional evidence.

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.

While the director advised the petitioner that he could file an appeal, 8 C.F.R. § 103.2(b)(15) provides:

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.

Therefore, this office has no jurisdiction over the instant appeal. Rather, 8 C.F.R. § 103.5(a)(2) provides that denials due to abandonment may be challenged in a motion to reopen before the office that rendered the decision based on limited arguments.

ORDER: The appeal is rejected.