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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE: [REDACTED]
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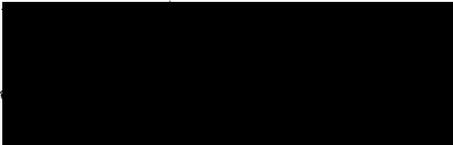
OFFICE: VERMONT SERVICE CENTER

DATE: SEP 08 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:



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 preference visa petition was denied by the Director, Vermont Service Center on August 28, 2001. The petitioner 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 of Cambodia and a lawful permanent resident of the United States 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 three requests for additional evidence from the petitioner. The most recent request for additional evidence was sent to the petitioner in care of her attorney of record on March 7, 2003. The director indicated in the request for additional evidence that the petitioner had 60 days to respond to the request. The petitioner failed to respond to the request for additional evidence; therefore, the director denied the petition for abandonment. On appeal, the petitioner provides additional documentation.

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.