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

BOA



FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE SEP 03 2004
EAC 02 223 52431

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.

Mari Johnson
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center on September 18, 2003. 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 and citizen of Venezuela 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 October 18, 2002. The request for additional evidence was sent to the petitioner at the address listed on the Form I-360 application. The petitioner used the same address on the Form I-290B appeal notice. The petitioner failed to respond to the request for additional evidence within the 60 days allotted. The director denied the petition due to abandonment. On appeal, the petitioner submits 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.