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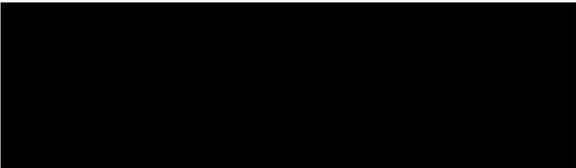
B9

FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: DEC 05 2005  
EAC 04 136 51204

IN RE: Petitioner: [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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

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

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n 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.”

As stated by counsel on the Form I-290B, the sole ground for the appeal is that the petitioner “has submitted sufficient proof to comply with the requirements of Section 204(a)(1) of the Act as a self-petitioning spouse.” Counsel does not elaborate on his statement or point to specific evidence to support his assertion that the record contains “sufficient proof” to support a finding of eligibility. The statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). Counsel’s general statement is not sufficient to meet the requirement of the regulation.

Further, despite counsel’s indication on the Form I-290B that a separate brief or evidence was being submitted to the AAO within 15 days, to date, more than seven months after the appeal was filed, no further evidence has been submitted. In an effort to ensure that counsel’s additional documentation had not been lost if, in fact, submitted, the AAO contacted counsel by fax and afforded counsel the opportunity to resubmit a copy of the brief and/or evidence submitted in support of the appeal, with evidence of the date the additional documentation was submitted to the AAO. The AAO noted that as the regulations do not allow for an open or indefinite period in which to supplement a previously filed appeal, the fax was not an opportunity for counsel to submit a late brief or evidence, but rather to resubmit what had already been submitted on appeal. On November 20, 2005 counsel submitted additional documentation in response to the AAO’s fax. However, counsel failed to provide any evidence that the documentation had been submitted to the AAO prior to the fax. In fact, a majority of counsel’s submission which consists of affidavits, are all dated November 2005.

Inasmuch as the petitioner has failed to specifically identify any erroneous conclusion of law or statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

**ORDER:** The appeal is dismissed.