



U.S. Citizenship
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FILE:

[Redacted]
EAC 04 076 52328

Office: VERMONT SERVICE CENTER

Date: DEC 05 2005

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.

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 petitioner filed the instant Form I-360 petition on January 20, 2004, claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, her U.S. citizen spouse during their marriage. In a decision dated April 25, 2005, the director denied the petition finding that the petitioner failed to establish that she had a qualifying relationship as the spouse of a United States citizen. Specifically, the record contained no evidence to establish that the petitioner's spouse was a United States citizen.

On appeal, while counsel states that "it will be difficult" for the petitioner to obtain proof of her spouse's United States citizenship, counsel fails to assert any error on the part of the director. The burden is on the petitioner to establish that she has a qualifying relationship as the spouse of a United States citizen. The unsupported 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).

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.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.