



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
disclosure of personal information

PUBLIC COPY

BA



FILE: [REDACTED]
EAC 03 070 52904

Office: VERMONT SERVICE CENTER

Date: MAY 18 2005

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The record reflects that the director issued a request for evidence on May 12, 2004. In that letter, the director requested the petitioner to submit an "affidavit supported by police clearances or records from each place you resided for at least 6 months during the 3-year period before" the filing of the petition. The director noted that if police clearances, background checks, or other reports were not available, the petitioner should submit an explanation, in addition to other evidence to support the affidavit.

The petitioner did not respond to the director's request and the director subsequently denied the petition on September 29, 2004, finding that the evidence contained in the record did not establish eligibility.

On October 25, 2004, the petitioner submitted the instant appeal. Concurrent with the appeal, the petitioner submitted additional documentation, including an affidavit and other letters attesting to her good moral character. It is noted that the petitioner did not submit any police clearances or background checks.

The petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. The petitioner failed to submit the requested evidence and now submits it on appeal. However, the AAO will not consider this evidence for any purpose. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). The appeal will be adjudicated based on the record of proceeding before the director.

At the time of the director's decision, the record contained no evidence of the petitioner's good moral character. The director's request for evidence correctly indicated that the record lacked evidence of the petitioner's good moral character. If the petitioner had wanted the submitted evidence to be considered, she should have submitted the documents in response to the director's request for evidence, not on appeal. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on 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.