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U.S. Citizenship
and Immigration
Services

B9



FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: MAY 20 2005
EAC 03 171 53334

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:
[REDACTED]

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, Vermont Service Center, and is now before the Administrative Appeals Office 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.”

On the Form I-290B Notice of Appeal, filed on December 9, 2004, counsel for the petitioner indicated that no separate brief or evidence was being submitted on appeal. Counsel listed the following reason for the appeal:

The U.S.C.I.S. erred in denying the application for benefits under the Violence Against Women Act. The evidence presented was sufficient to establish eligibility under the law. A review of the file and the evidence submitted, [shows] that the examiner erred in his decision.

Counsel does not elaborate on her statement or point to specific evidence to support her assertion that the record contains sufficient evidence 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). Moreover, counsel fails to specifically identify where the director made her purported erroneous conclusion of law or statement of fact. Counsel’s general statement that the “examiner erred in his decision” is not sufficient to meet the requirement of the regulation.

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

ORDER: The appeal is dismissed.