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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

B9



FILE: [Redacted]
EAC 03 176 52224

Office: VERMONT SERVICE CENTER

Date: NOV 18 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:

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.

Maui Johnson

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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 petitioner is a native and citizen of Dominican Republic 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. It is noted that the petitioner was ordered excluded on June 5, 1992.

Finding the evidence insufficient to establish eligibility for the benefit sought, the director issued a request for additional evidence (RFE) on April 27, 2004. The director granted the petitioner 60 days in which to present additional evidence, to withdraw the petition, to request a decision based on the evidence submitted, or to request additional time to respond. The petitioner failed to respond to the RFE. On August 11, 2004, the director denied the petition, finding a determination as to the petitioner's eligibility could not be made.

On appeal, the petitioner wrote the following as the reason for the appeal:

Petitioner prays for a de novo examination of the BIWPA case for adjudication of the whole application commenced with the I-130 petition by the spouse citizen of the United States and the case has been suffering, of actions deemed mental torture by the husband to acquire control of the life and cohabitation abusing the wife to the last day of shared relationship as a couple. The facts and circumstances detained by the petitioner and therapy with the licensed therapist will provide the legal basis for adjudication as a Battered Immigrant by the U.S. citizen.

The regulations adopted to examine the marital abuses in BIWPA (20000) should be found controlling for the disposition of my case (I-360) after numerous difficulties in the cohabitation with [REDACTED]. A divorce action to sever [sic] my legal relationship due to his cruel and inhuman treatment had been sought and I expect a final sentence or decree to dissolve my marriage from [REDACTED] and put in the past all my misfortunes. Once a closure is deemed achieved, my therapy will be fruitful and helpful after so much pain and suffering for the past decade to the present outcome derived from all of his misdeeds within what is called: marital relationship of good faith. I urge review.

The petitioner failed to address specifically the grounds for denial set forth in the decision of the director.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An 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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

On appeal, the petitioner submitted a psychological evaluation dated July 17, 2004. The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal. Consequently, the appeal will be dismissed.

ORDER: The appeal is dismissed.