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

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: SAN ANTONIO DISTRICT OFFICE Date: JUL 20 2004

IN RE: Petitioner: [redacted]
Beneficiary:

Application: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

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.

Elizabeth O'Brien
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The District Director, San Antonio, Texas District Office, denied the preference visa petition. The petitioner appealed the director's decision to the Administrative Appeals Office (AAO). The AAO dismissed the appeal. The matter is now before the Administrative Appeals Office (AAO) on motion to reopen/reconsider. The motion will be granted and the prior decisions of the director and of the AAO will be affirmed.

The AAO dismissed the appeal, finding that the petitioner had failed to establish that her spouse had demonstrated appropriate rehabilitation. The AAO further noted that the petitioner's spouse failed to demonstrate an awareness of the gravity of or remorse for his offense (beating the petitioner's six-year old daughter, causing a severe hematoma to her face). The AAO also noted that the petitioner had failed to submit all marriage certificates and divorce decrees and that the home study report was inadequate as it failed to give accurate detailed information about all domestic violence incidents and offers no explanation as to why the home study preparer recommended the applicant's household for the adoption of an orphan, taking into consideration the complete record, other than "the stability of the two parents and their relationship."

On motion, the petitioner submits her marriage licenses and a divorce decree indicating that she wed her spouse, Geoffrey Agueze on October 1, 1982, divorced on January 26, 1989 and remarried him on October 1, 1990. The petitioner submits a letter dated December 11, 2003, written by a Domestic Violence Prevention Program Coordinator stating that the petitioner's spouse Geoffrey Agueze completed a twelve-week program on April 1, 1994. The petitioner also submits her own narrative asserting that more than ten years had lapsed since the last incident of domestic violence in her home and that there has been no relapse. She further asserts that her daughter has entrusted her child (the petitioner's grandchild) to the petitioner and the petitioner's spouse for her upbringing.

In review, the evidence is insufficient to establish that the petitioner's spouse has demonstrated sufficient rehabilitation. In visa petition proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The prior decisions of the director and of the AAO are affirmed.