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



**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**

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FILE: [REDACTED]  
EAC 03 227 54605

Office: VERMONT SERVICE CENTER

Date: NOV 10 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 is a native and citizen of the 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.

The record reflects that the petitioner married United States citizen [REDACTED] on March 11, 1997 in Berks County, Pennsylvania. The record further reflects that the petitioner and her spouse were divorced on December 15, 1999. The instant Form I-360 petition was filed by the petitioner on August 2, 2003, more than two years after the dissolution of her marriage.

The director denied the petition noting that the petitioner had been divorced from her citizen spouse for more than two years at the time of filing and finding that she could not be considered as the “spouse of a United States citizen within the past 2 years,” in accordance with section 204(a)(1)(A)(iii)(II)(aa)(CC) of the Act.

On appeal, the petitioner submits a copy of a psychological evaluation and copies of documents previously submitted, but offers no new facts or evidence to overcome the findings of the director.<sup>1</sup> The petitioner states that she is requesting a review of her case based upon the:

[H]ardship suffered while cohabitating with [her spouse], who filed for divorce triggering dissolution of the marital bond formed in good faith as a dutifully and loving marital partner. Notwithstanding the divorce by December 15, 1999, prior to the filing and separation for cause not provoked by spouse, his misdeeds as a sexual partner living as a free person scared applicant who was afraid of contracting sexually triggered sickness – including HIV/AIDS from a partner who used to be addicted to chemicals including alcohol and controlled substances, both found after a loving and sincere courtship and a marital relationship bonded by his initial affectionate nature and later forced actions to provoke my abandonment of the marital obligations to continue being his paramour and sex object. If I failed to explicitly discovered my motives for accepting his divorce, now I had been forced to recreate and re-live pains and suffering that I believed were to be left behind and continue to look for mental sanity pardoning his moral misconducts.

The petitioner’s statement regarding the cause of her divorce is not relevant to the issue of whether she was divorced for more than two years at the time of filing. In fact, rather than disputing the findings of the director, the petitioner acknowledges that her marriage was, indeed, dissolved more than two years prior to the filing of the petition.

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<sup>1</sup> We note that even if the petitioner had submitted new evidence on appeal, such evidence would not be considered on appeal pursuant to *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988) and *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). As 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’s submission of the requested evidence on appeal does not overcome her failure to submit such evidence when requested.

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 address the director's ground for denial and has failed to specifically identify an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

**ORDER:** The appeal is dismissed.