

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

**B9**



FILE:

EAC 06 208 50869

Office: VERMONT SERVICE CENTER

Date: **MAR 03 2009**

IN RE:

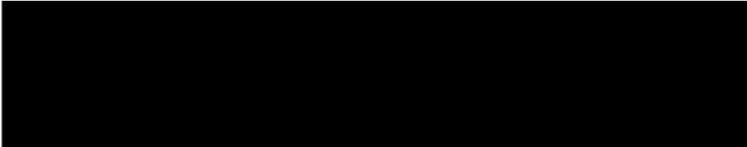
Petitioner:



PETITION:

Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(ii)

ON BEHALF OF PETITIONER:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the matter remanded for issuance of a NOID to the attorney of record.

The petitioner seeks classification as a special immigrant pursuant to section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii), as the battered spouse of a lawful permanent resident. The petitioner, through counsel, submitted a Form I-360 Petition on June 27, 2006. On January 9, 2007 the director issued a Notice of Intent to Deny (NOID), as prescribed by regulation, allowing the petitioner 60 days to respond. See 8 C.F.R. § 204.2(c)(3)(ii)(2006), in effect for all I-360 Petitions filed before June 18, 2007. No response was received, and the director denied the petition on May 14, 2007.

A NOID must be sent to the petitioner's attorney of record. In this case a Form G-28 Notice of Entry of Appearance was submitted by [REDACTED] in connection with the I-360 Petition. The NOID was not sent to [REDACTED] but instead to [REDACTED] at a different address. Neither the petitioner nor her attorney was properly advised of the NOID or given the required opportunity to respond. The AAO will, therefore, withdraw the director's May 14, 2007 decision and remand the matter for issuance of the NOID to the attorney of record.

**ORDER:** The director's decision is withdrawn and the matter is remanded to the director for issuance of a NOID. If a new decision is adverse to the petitioner, it is to be certified to the Administrative Appeals Office for review.