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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

FILE: [redacted]
EAC 97 236 50206

Office: Vermont Service Center

Date: AUG 15 2003

IN RE: Petitioner:
Beneficiary: [redacted]

APPLICATION: 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)

IN BEHALF OF PETITIONER: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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 Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on a motion to reopen. The motion will be rejected, and the case will be remanded to the director for further action.

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 director determined that the petitioner had failed to establish that she: (1) is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A), 8 U.S.C. § 1151(b)(2)(A)(i) or § 1153(a)(2)(A), based on that relationship, pursuant to 8 C.F.R. § 204.2(c)(1)(i)(B); and (2) entered into the marriage to the citizen or lawful permanent resident in good faith, pursuant to 8 C.F.R. § 204.2(c)(1)(i)(H). The director, therefore, denied the petition.

On appeal, the applicant submits a motion to reopen and reconsider her I-360 petition. She submits additional evidence.

Pursuant to 8 C.F.R. § 103.5(a)(i) and (ii), when the affected party files a motion, the official having jurisdiction may, for proper cause shown, reopen the proceeding or reconsider the prior decision. The official having jurisdiction is the official who made the latest decision in the proceeding.

The motion to reopen or reconsider, in this case, is not within the jurisdiction of the AAO. Therefore, the motion will be rejected, and the case will be remanded to the director for further action.

ORDER: The motion is rejected. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.