



U.S. Citizenship  
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FILE: [REDACTED]  
EAC 06 242 51661

Office: VERMONT SERVICE CENTER

Date: DEC 02 2008

IN RE: Petitioner: [REDACTED]

PETITION: Petition for Immigrant Abused 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:



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.

  
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 AAO will withdraw the director's decision; however, because the petition is not approvable, it will be remanded for further action and consideration.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as an alien battered or subjected to extreme cruelty by a United States citizen.

The director denied the petition for failure to establish: that the petitioner resided with the citizen or lawful permanent resident; the requisite battery or extreme cruelty; that the petitioner is a person of good moral character; and that the petitioner entered into the marriage in good faith.

On appeal, counsel submits additional documents.

The AAO concurs with the director's determination that the petitioner has not established that the petitioner resided with the citizen or lawful permanent resident; the requisite battery or extreme cruelty; and that the petitioner entered into the marriage in good faith. Nonetheless, the case must be remanded because the director denied the petition without first issuing a Notice of Intent to Deny (NOID) pursuant to the regulation at 8 C.F.R. § 204.2(c)(3)(ii).

Section 204(a)(1)(A)(iii) of the Act provides that an alien who is the spouse of a United States citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the alien or a child of the alien was battered or subjected to extreme cruelty perpetrated by the alien's spouse. In addition, the alien must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J), states, in pertinent part:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) . . . or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

The eligibility requirements are further explained in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(v) *Residence.* . . . The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser . . . in the past.

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase “was battered by or was the subject of extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner’s marriage to the abuser.

(vii) *Good moral character.* A self-petitioner will be found to lack good moral character if he or she is a person described in section 101(f) of the Act. Extenuating circumstances may be taken into account if the person has not been convicted of an offense or offenses but admits to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. A person who was subjected to abuse in the form of forced prostitution or who can establish that he or she was forced to engage in other behavior that could render the person excludable under section 212(a) of the Act would not be precluded from being found to be a person of good moral character, provided the person has not been convicted for the commission of the offense or offenses in a court of law. A self-petitioner will also be found to lack good moral character, unless he or she establishes extenuating circumstances, if he or she willfully failed or refused to support dependents; or committed unlawful acts that adversely reflect upon his or her moral character, or was convicted or imprisoned for such acts, although the acts do not require an automatic finding of lack of good moral character. A self-petitioner's claim of good moral character will be evaluated on a case-by-case basis, taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community. If the results of record checks conducted prior to the issuance of an immigrant visa or approval of an application for adjustment of status disclose that the self-petitioner is no longer a person of good moral character or that he or she has not been a person of good moral character in the past, a pending self-petition will be denied or the approval of a self-petition will be revoked.

\* \* \*

(ix) *Good faith marriage.* A spousal self-petition cannot be approved if the self-petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws. A self-petition will not be denied, however, solely because the spouses are not living together and the marriage is no longer viable.

The evidentiary guidelines for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explained in the regulation at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

*Evidence for a spousal self-petition –*

(i) *General.* Self-petitioners are encouraged to submit primary evidence whenever possible. The Service will consider, however, any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

\* \* \*

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together . . . . Employment records, utility receipts, school records, hospital or medical records, birth certificates of children . . . , deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or have taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other forms of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuses may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

\* \* \*

(vii) *Good faith marriage.* Evidence of good faith at the time of marriage may include, but is not limited to, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. Other types of readily available evidence might include the birth certificates of children born to the abuser and the spouse; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.

The record in this matter provides the following pertinent facts and procedural history. The petitioner is a native and citizen of Brazil who was admitted to the United States on July 16, 1994 as a B-1 nonimmigrant visitor. On May 24, 2006, the petitioner married J-V-<sup>1</sup> a United States citizen, in Florida. The petitioner filed a Form I-

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<sup>1</sup> Name withheld to protect individual's identity.

485, Application to Adjust Status, on August 18, 2006 which was denied October 3, 2007. Although it appears that the petitioner's husband has filed for divorce, the record includes court minutes from several hearings, the latest set for February 6, 2007. The court minutes indicate that the petitioner's husband has appeared and the petitioner has not. The court minutes further indicate that the court has ruled that all financial issues including how the marital residence will be divided is to be resolved in order to go forward with an uncontested dissolution of marriage hearing and that the parties are to enter an agreement and reset the uncontested hearing or set this case for trial.

The petitioner filed the instant Form I-360 on August 18, 2006. The director issued a Request for Evidence (RFE) on March 14, 2007 requesting evidence of the citizenship status of J-V, evidence that the petitioner had resided with her spouse, evidence to show that the petitioner had been the subject of battery or extreme cruelty by her spouse, evidence of her good moral character, and evidence that she had entered into her marriage in good faith.

The petitioner responded on May 3, 2007 by submitting a statement and additional evidence. After considering the evidence in the record, including the evidence submitted in response to the RFE, the director denied the petition on September 21, 2007. As will be discussed, we concur with the findings of the director that the petitioner failed to establish that she resided with her former spouse, that she was battered or subjected to extreme cruelty by her former spouse during their marriage, and that she entered into the marriage in good faith.

#### *Residence*

The record includes a copy of the petitioner's marriage certificate showing the date of her marriage as May 24, 2006 to J-V. The record also contains a copy of a petition for injunction for protection against domestic violence filed July 6, 2006 in Orange County, Florida and a temporary injunction granted the same date. The petitioner indicates in the injunction petition that the location of her and her spouse's residence is on [REDACTED] in Orange, Florida.<sup>2</sup> Also in response to the director's RFE, the petitioner provided a copy of an unsigned mortgage identifying the borrowers as the petitioner and J-V for property located in Saint Cloud, Florida. The mortgage is dated October 27, 2006, a date subsequent to the date the petitioner indicates she separated from her husband on June 22, 2006. The petitioner also provided a copy of a Verizon bill dated January 9, 2007, issued to the petitioner and a third party, [REDACTED] at an address on [REDACTED] in Orlando, Florida. The [REDACTED] address is the same address the petitioner identified as the place she and her husband resided, an address she stated that she left on June 22, 2006. The record further includes a Form G-325A, Biographic Information, dated July 20, 2007, wherein the petitioner indicates she lived at:

- [REDACTED], Fall River, Massachusetts from September 2000 to March 2003;
- [REDACTED], Kissimmee, Florida from March 2003 to August 2005;

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<sup>2</sup> In response to the director's RFE, the petitioner noted that "the altercation that resulted in the temporary protection order was dismissed due to insufficient evidence submitted to the courts to warrant a permanent order."

- [REDACTED] Orlando, Florida from August 2005 to May 2006;
- [REDACTED] Orlando, Florida from May 2006 to June 2006;
- an address in St. Cloud, Florida from June 2006 to the date of the Form G-325A (July 20, 2007).

The record does not include any evidence that J-V lived at the address in [REDACTED], Orlando, Florida. The AAO has also reviewed the four statements submitted by individuals who claim to know the petitioner and her husband. The letters submitted do not identify the actual location of the residence(s) where the applicant and her spouse lived during their marriage. The AAO has also reviewed a letter on the letterhead of the Bank of America dated October 15, 2007 and submitted on appeal. The letter-writer indicates that the petitioner and J-V- had a joint account with Bank of America from June 13, 2006 to October 31, 2006 when it was closed. The letter does not indicate the address the couple used to open the account and the record does not contain evidence of statements issued to the couple at a specific address. The letter is not probative in establishing that the petitioner and J-V- resided together at a particular address. The record in this matter does not include probative documentation that establishes that the petitioner resided with her spouse.

#### *Battery or Extreme Cruelty*

The petitioner initially did not submit a separate statement regarding abuse but instead submitted the Petition for Injunction for Protection Against Domestic Violence (Petition for Injunction) that recounted two incidents of alleged abuse in the marriage.<sup>3</sup> In the July 6, 2006 Petition for Injunction, the petitioner stated that on June 14, 2006, “the respondent and I started to argue. Trying to get away from him I went into the walk in closet. He grabbed me by the neck and threw me on the floor. I got up, he grabbed me by the neck again and dragged me into the bathroom then he left me.” The petitioner reports that when J-V came back she was packing to leave and J-V asked her not to leave, followed her to her car, they both got in the car, and J-V said he was sorry. The petitioner reports that she returned to the house to work it out with him. The petitioner reports that “one week later [June 21, 2006], arguing he threw me on the bed, got my keys, removed the house keys, threw the set of the keys at me, screaming for me to leave the house.” The petitioner states that she started to pack her stuff and when he left the room she called the police and asked if she had to leave because her husband had told her to leave. The police told her she did not have to leave, but she went for a ride and called her mom who asked her to pack her belongings and come and stay with her. The petitioner indicates she returned to the house and while she was packing her car, J-V told her if she left she would never come back. The petitioner states “because I was afraid of my well being I left the house.”

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<sup>3</sup> In an October 17, 2007 statement submitted on appeal, the petitioner recounts an altercation that occurred at the end of 2005 prior to her marriage to the J-V on May 24, 2006, wherein J-V became upset on seeing pictures of the petitioner with a male friend and started to choke her. The incident ended when the petitioner’s sister and mom came to her assistance and made J-V leave the apartment. The regulation at 8 C.F.R. § 204.2(c)(1)(iv) requires in pertinent part, that the qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner’s marriage to the abuser. As this alleged abuse did not take place within the marriage, this incident is not relevant regarding abuse that occurred during the marriage.

In response to the director's RFE, requesting further information regarding her abuse, the petitioner provided the following statement:

The incident that triggered police involvement was the first time that my spouse had ever become physical in his abuse towards me. Before that incident the abuse was more verbal and following his physical abuse became worse. My spouse is very notorious for calling me names and belittling me by calling me nasty names and using very derogatory language and telling me that I am nothing without him and that if I were to leave him that he would have me deported back to my country. He also would threaten to kill me should I decide to leave him. He would stalk me at my work and was jealous of my colleagues. I was limited at my work due to fear of my husband threatening or embarrassing me in front of my co[-]workers or friends. My life since I have been married has been an imprisonment for fear of my life if any attempt would be made on my part to leave. To this very day my husband still persists in attempting to persuade me to accept him back and when I reject him he becomes furious and continues in rage. I plead to the examiner of this case to please consider the deeper dynamics of what it is I am trying to describe however vague it might seem.

On appeal, as footnoted above, in an October 17, 2007 statement the petitioner relates an incident of alleged abuse at the end of 2005 prior to her marriage to J-V and prior to living with him. The petitioner also states:

The day we got married he act very strange. He got really upset and screamed at me in front of his cleaning lady because I had told her we had just came back from the Courthouse and we were now husband and wife. He saw me crying and came to apologize, it was our first day as husband and wife and we should be happy.

On 6/14/06 [J-V] and I were in the bedroom talking about issues we were having with his ex[-]wife related to his kids. **We start arguing and screaming at each other.** Since we couldn't agree I decided not to talk anymore and trying to get away from him I went to the walk in closet. He came after me, started screaming in my face why I was ignoring him and not to walk away when he's talking. I insulted him and tried to leave the walk in closet. Screaming at me to repeat what I had just said he grabbed my by the neck trying to chock [sic] me and dragged me to the bathroom. He was out of himself and didn't realize I couldn't breath[e] and almost killed me. He finally let me go, crying and very scare [sic] I started packing my things.

The petitioner indicates that when she started packing, her husband asked her not to leave, ran after her to her car, and upon becoming calmer convinced her to come back into the house and try to work things out. The petitioner indicates that she returned to the house and that for about a week things were normal. About a week after the first incident, the petitioner reports she was not feeling well and told J-V that she was not going to go to work. The petitioner states: "[h]e got very upset, he threw me on the bed, threw his computer at me and also the chair he has in the bedroom, telling me I was very lazy and I needed to go to work." The petitioner reports that J-V threw her keys at her and told her to leave the house and that she did. After a ride

in her car, she returned to the house and started packing. The petitioner reports that while she was packing “J-V arrived and told me if I left the house he would never let me come back.” The petitioner indicates that she left the house, called her mom and a couple of friends and “drove to one of them’s houses to stay with her.”

At the time of filing, the petitioner failed to submit any personal statement regarding the alleged battery or extreme cruelty perpetrated against her by J-V during the marriage. As documentary evidence, the petitioner submitted the Petition for Injunction that contained the general statement recounting two incidents as recited above regarding the alleged abuse.

In response to the director’s RFE, the petitioner indicated that the “incident that triggered police involvement was the first time that my spouse had ever become physical in his abuse towards me” and noted that before that incident the abuse was more verbal and following the physical abuse became worse. The petitioner adds that her spouse would call her names, use derogatory language, tell her he would have her deported, and threaten to kill her if she left him. The petitioner further added that her husband would stalk her and that her marriage was an imprisonment because she feared for her life if she made an attempt to leave him. The petitioner also reported that “the altercation that resulted in the temporary protection order was dismissed due to insufficient evidence submitted to the courts to warrant a permanent order.”

The AAO notes that the petitioner’s response to the director’s RFE varied from her statement provided in the Petition for Injunction. The petitioner’s statement in the Petition for Injunction focused on two incidents resulting in her petition for the injunction, while her response to the RFE cited one incident that triggered police involvement. Moreover, in the petitioner’s response to the RFE, the petitioner did not discuss the incident of physical assault that allegedly occurred prior to her marriage. The petitioner does not provide an explanation for these inconsistencies. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In addition, the petitioner does not explain why she did not follow through with the Petition for Injunction by presenting further evidence to the court, if her husband was stalking her at work and she was afraid for her life if she attempted to leave him.

On appeal, the petitioner returns to the description of the two incidents of physical assault on June 14, 2006 and on June 21, 2006, but does not indicate in detail that her husband stalked her at work or verbally abused her. In addition, the petitioner elaborates on the June 21, 2006 incident by indicating that J-V not only threw her on the bed and threw her keys at her, but also threw a computer and a chair in her direction. The petitioner in this matter, when given the opportunity to detail the verbal abuse and to provide detail regarding any physical abuse in response to the RFE, did not do so. The AAO finds that the petitioner has not presented consistent statements to Citizenship and Immigration Services (CIS) regarding her claim of physical or verbal abuse. Doubt cast on any aspect of the petitioner’s proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The AAO acknowledges counsel's assertion on appeal that the petitioner was not properly represented in this matter and that is why her claim was denied; however, counsel does not submit any evidence to substantiate this assertion. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). In addition, any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him or her and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988).

The AAO has also reviewed three letters submitted on appeal that discuss the alleged abuse:

- An October 16, 2007 letter signed by the petitioner's sister, who states that the petitioner and her husband would argue a lot, had a violent relationship, and the petitioner's husband threw the petitioner out of the house and would harass her with drunken phone calls.
- An October 16, 2007 letter signed by [REDACTED] who states that in June 2006 she received a call from the petitioner who was crying and who told her that her husband had become physically abusive with her.
- An October 16, 2007 letter signed by [REDACTED] who states that in 2006 the petitioner "confessed that J-V was being violent, he would break things around the house, rip clothes off of her body and even choked [sic] her."

The statements submitted on the petitioner's behalf by her acquaintances and sister are insufficient to demonstrate that she was battered or subjected to extreme cruelty during her marriage. These individuals do not indicate that they ever witnessed any particular incident of abuse or provide specific details regarding particular incidents claimed by the petitioner.

As discussed above, the documentary evidence contained in the record is insufficient to establish the petitioner's claim of abuse. The petitioner has generally described two incidents where she was allegedly threatened and physically assaulted by J-V- in the Petition for Injunction and on appeal. However, her statement in response to the RFE and her statement on appeal are not consistent. The petitioner's failure to describe in probative detail the verbal and physical abuse and the conflicting testimony regarding the number of incidents diminish the petitioner's claim. Further, the petitioner offers no specific testimonial evidence regarding any alleged extreme cruelty perpetrated against her by J-V- which demonstrates that his behavior rose to the level of extreme cruelty, as described in the regulation at 8 C.F.R. § 204.2(c)(1)(vi), which includes (but is not limited to) actions such as forceful detention, psychological or sexual abuse or exploitation, rape, molestation, incest, or forced prostitution. Accordingly, the petitioner failed to establish that she was battered or subjected to extreme cruelty

by J-V- during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act. Accordingly, we concur with the findings of the director that the petitioner failed to establish that she was battered or subjected to extreme cruelty by her spouse during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

*Good Faith Entry into Marriage*

The petitioner initially did not submit any information regarding her relationship with J-V- other than the marriage certificate and the Petition for Injunction. In response to the director's RFE, the petitioner referenced enclosed photos and mortgage documents for a home that she claimed that she and her husband purchased. The record does include photographs although it appears the photographs were submitted on appeal. The record includes a photograph of a scoreboard for a Magic and Sonics basketball showing the question "Will you marry me?" The scoreboard does not include a date and does not include any other identifying information. The record also includes five photographs of the petitioner and her husband and a photograph of the petitioner and two children, that the petitioner identifies as her husband's children from a previous marriage. The photographs do not include dates or include any other identifying information and the photograph with the children does not include any substantiating information regarding the identity of the children.

On appeal, the petitioner states that she met J-V- in March 2003 and that she moved in with him two months later, but moved out sometime later because his ex-wife would not let his kids come over while the petitioner was staying there. The petitioner further reports that J-V- became very jealous and possessive of her and describes an incident of alleged abuse at the end of 2005. The petitioner states that after that incident she and J-V- would attend his church on Saturdays with his family and she would go to her church on Sundays. The petitioner indicates that J-V- asked her to marry him at a Magic's basketball game. The remaining portion of the petitioner's statement on appeal relates to the two incidents of alleged abuse discussed above. The petitioner also provides the following four letters:

- An October 16, 2007 letter signed by the petitioner's sister, who states that she was present in Orlando for one year of her sister's and J-V-'s relationship as boyfriend and girlfriend and for the entire duration of their relationship as husband and wife. She declares that before she moved to Orlando she stayed with her sister and J-V- at their apartment in 2003 and that in the middle of 2005 when she had moved to Orlando, she observed J-V- picking her sister up at her and her sister's apartment to go out to eat, shop, or go on dates. As noted above, the remaining portion of the letter reports on the alleged abuse suffered by her sister.
- An October 16, 2007 letter signed by [REDACTED] who states that she has known the petitioner since July of 2005 and that the petitioner would tell her about her relationship with J-V-. She indicates that she and the petitioner hung out a few times while the petitioner was dating J-V- but once the petitioner and J-V- were engaged, the petitioner stopped talking to her because J-V- did not want the petitioner to have friends. As noted above, the remaining portion of the letter reports on the alleged abuse suffered by the petitioner.
- An October 16, 2007 letter signed by [REDACTED] who states that he has known

the petitioner since February 2003 and that when he met the petitioner she was already dating J-V-. The declarant indicates that the petitioner became his roommate in the beginning of 2005 and he saw J-V- picking the petitioner up at their apartment. The declarant further indicates that J-V- sent flowers to the apartment for the petitioner.

- An October 16, 2007 letter signed by [REDACTED] who states that the petitioner was staying with her when the petitioner first met J-V-. She declares that J-V- would phone the petitioner and would pick her up to go out on dates. The declarant notes that the petitioner moved in with J-V- about two months after she met him. The remaining portion of the letter, as noted above, reports on the alleged abuse suffered by the petitioner.

The five photographs of the couple confirm that the petitioner and J-V- were together on five, unidentified occasions, but these documents alone do not establish the petitioner's good-faith entry into the marriage. Despite a claimed relationship of more than three years, the petitioner provides no other photographs of shared events or special occasions either prior to or after their marriage. As noted above, the photograph of the scoreboard does not contain information that shows that the individual listed on the scoreboard is the petitioner and the photograph of the petitioner with two children does not substantiate that the children in the photograph are J-V-'s children.

In addition, information in two of the four letters submitted conflict with the petitioner's statement on appeal and with forms provided to CIS. For example, in the October 16, 2007 letter, [REDACTED] states, among other things, that the petitioner became his roommate at the beginning of 2005 and he saw J-V- picking the petitioner up at his and the petitioner's apartment. In the letter signed by the petitioner's sister on October 16, 2007, the petitioner's sister indicates, among other things, that in the middle of 2005 when she and the petitioner were living together, she observed J-V- picking her sister up at her and the petitioner's apartment to go out to eat, shop, or go on dates. The petitioner's Form G-325A lists the petitioner's address from March 2003 to August 2005 as [REDACTED], Kissimmee, Florida. The Form G-325A does not list two different addresses for the beginning and the middle of 2005. In addition, the petitioner's sister declares that in 2003, before she moved to Orlando, she visited the petitioner and J-V- at their apartment. On appeal, the petitioner also states that she lived with J-V- two months after she met him in March 2003. She does not state the length of her residence with J-V-, but notes that she moved out apparently because J-V-'s ex-wife would not let J-V-'s children visit while she was at this location. However, the Form G-325A lists only the petitioner's residence at [REDACTED], Kissimmee, Florida from the March 2003 time period up to August 2005 and does not include an additional residence with J-V- during the May 2003 time period. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, at 591-92. The failure to provide consistent information in the forms filed with Citizenship and Immigration Services (CIS) and the petitioner's statement, as well as providing information from third parties that conflict with forms filed with CIS diminishes the credibility of the petitioner's claim of an ongoing relationship with J-V- that resulted into the entry of a good faith marriage.

Also in response to the director's RFE, the petitioner provided a copy of an unsigned mortgage identifying the

borrowers as the petitioner and J-V for property located in Saint Cloud, Florida. The mortgage is dated October 27, 2006, a date subsequent to the date the petitioner indicates she separated from her husband on June 22, 2006. The petitioner also provided a copy of a Verizon bill dated January 9, 2007, issued to the petitioner and a third party, [REDACTED] at an address on [REDACTED] in Orlando, Florida. The [REDACTED] address is the same address the petitioner identified as the place she and her husband resided, an address she stated that she left on June 22, 2006.

Although the petitioner has provided general information regarding how she met J-V-, her statement on appeal does not offer probative details of their life together before or after their marriage except as it relates to the claimed abuse. Although the petitioner has also submitted four letters from acquaintances and her sister, the letters include only general statements regarding the petitioner's relationship with her spouse, such as describing J-V- picking her up for dates and sending flowers.<sup>4</sup> The letters provide no probative details regarding the petitioner's relationship with J-V- and their interactions with each other and do not provide substantive information on how the couple met each other.

Although the petitioner mentions how she met her husband and provides some limited and general information regarding their courtship in her statement on appeal, she provides no further testimony regarding their marriage, joint residence or any of their shared experiences, apart from the alleged abuse. The petitioner's sister and acquaintances also fail to provide probative details regarding her alleged good-faith entry into the marriage and the relevant documentary evidence also fails to establish the petitioner's claim. Accordingly, the petitioner has not demonstrated that she entered into marriage with her husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

We concur with the director's determination that the petitioner has not demonstrated the requisite residence, battery or extreme cruelty, or entry into a good faith marriage. Accordingly, based on the present record, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. Despite the petitioner's ineligibility based on the present record, this case must be remanded to the director for issuance of a NOID in compliance with the regulation at 8 C.F.R. § 204.2(c)(3)(ii). On remand, the director should address all three grounds for the intended denial of the petition as cited in the foregoing discussion.

As always in visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The director's decision is withdrawn; however, the petition is currently unapprovable for the reasons discussed above. Because the petition is not approvable, the petition is remanded to the director for issuance of a new, detailed decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.

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<sup>4</sup> The record on appeal includes a photocopy of a valentine's card with a message allegedly from J-V- to the petitioner, but does not contain a date or any probative information that assists in establishing that the petitioner entered into the marriage in good faith.