U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

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U.S. Citizenship and Immigration Services

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[redacted]

APR 24 2009

FILE: [redacted] Office: VERMONT SERVICE CENTER Date:
EAC 07 087 50492

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:

[redacted]

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. The matter is now before the Administration 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 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 an alien battered or subjected to extreme cruelty by a United States citizen.

We concur with the director's determination that the petitioner has not established that she was subjected to battery or extreme cruelty perpetrated by her spouse, L-T-[1]. We also concur with the director's determination that the petitioner has not established that she married the United States citizen in good faith. We also find, beyond the decision of the director, that the record does not include sufficient evidence to establish joint residence and the petitioner's good moral character. Nonetheless, the matter must be remanded because the director denied the petition without first issuing a Notice of Intent to Deny (NOID) the petition pursuant to the regulation at 8 C.F.R. § 204.2(c)(3)(ii).

On February 15, 2008, the director denied the petition, finding that the petitioner failed to establish that she had been subjected to battery or extreme cruelty as set out in the statute and regulations and had failed to establish that she had entered into the marriage in good faith.

On appeal, counsel disagrees with the director's determination regarding the probative value of the evidence submitted to establish that the petitioner entered into the marriage in good faith. Counsel asserts that upon review of the totality of the evidence, the good faith marriage of the petitioner has been established. Counsel also reiterates the petitioner's claim that she was subjected to abuse and asserts that the totality of the circumstances rise to the level of extreme cruelty.

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

[1] Name withheld to protect individual's identity

> 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.
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> (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.
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> (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.

> (v) *Good moral character*. Primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. Self-petitioners who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign country in which he or she resided for six or more months during the 3-year period immediately preceding the filing of the self-petition. If police clearances, criminal background checks, or similar reports are not available for some or all locations, the self-petitioner may include an explanation and submit other evidence with his or her affidavit. The Service will consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the self-petitioner's good moral character.
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> (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 in this matter is a native and citizen of Cote D' Ivoire. The petitioner married L-T- on April 17, 2001 in the State of Arkansas. The petitioner filed a Form I-485, Application to Register Permanent Resident or Adjust Status, on August 23, 2001 which was denied on May 11, 2006 along with the Form I-130, upon which the Form I-485 was based. The record includes the petitioner's Form G-325A, Biographical Information sheet, listing the petitioner's address on [redacted] from April 2001 to June 2001 and on [redacted] from June 2001 to the date of the Form I-325A.[2] The record also includes the petitioner's spouse's Form G-325A, which shows his address as on [redacted] from October 2000 to the date on the Form G-325A which is April 17, 2001. The petitioner filed the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, on February 5, 2007. The director issued a Request for Further Evidence (RFE) on October 11, 2007. Upon review of the record,

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[2] The Form G-325A is dated April 17, 2001, which is inconsistent with the filing date of the Form I-485 and the date of the petitioner's claimed addresses on the Form G-325A.

including the response to the RFE, the director denied the petition on February 15, 2008 for the reasons detailed above.

Battery or Extreme Cruelty

The AAO has reviewed the petitioner's initial personal statement, dated December 10, 2006, in which she declared that the first year of the marriage was good but that "[t]hings began to change around May of 2002." The petitioner stated: that her husband started coming home late and that this became more and more frequent until she believed that he was avoiding her; that his behavior had a negative impact on her emotionally and she would call her friends crying and seeking their advice; and "[a]s the months went on he became more and more belligerent and confrontational." She noted that he would come home drunk and would call her names, intimidate her, threaten to throw her out in the street, and threaten to call immigration on her. The petitioner indicated that she sent her daughter to live with a friend in Memphis as she did not want her daughter to be around the fights. The petitioner indicated that in July 2002 she became aware that L-T- was involved with another woman. The petitioner further indicated that L-T- was very jealous and controlling and that in October or November 2002 she went to visit her daughter in Memphis against his wishes and when she returned he had changed the locks on their home, but eventually he let her in. The petitioner stated that prior to November 2002 he had not struck her or harmed her physically, but in November 2002 he raped her. The petitioner stated that he apologized the next day and she thought the rape was an aberration; however he raped her twice more. The petitioner stated that she and L-T- had an argument when L-T- returned after missing Christmas 2002 and during the argument he slapped her, punched her with his fist in her back, and told her to leave before it got worse. The petitioner indicated that L-T- packed her bags and put them outside and that she then moved back to Memphis.

In a December 6, 2007 statement, the petitioner noted that L-T- had called her "out of the blue" the previous year and asked if she would come back and live with him. She noted that when she said no, he called her names and said he would make sure she was sent back to her country. The petitioner indicated that she went to the local police department in Memphis but they told her she would have to file an order for protection in Arkansas because that is where L-T- lived. She noted that she did not follow up with the Arkansas police because if L-T- wanted to harm her it would be in Tennessee not in Arkansas.

The record also includes a September 28, 2006 letter signed by clinical psychologist. indicated that the petitioner reported that her husband had emotionally, verbally, and physically abused her and that the petitioner and her husband are now separated. further noted that the petitioner was assessed using the Burns Depression Scale and the Burns Anxiety Inventory and scored in the severe range. advised the petitioner to consult with her primary care physician if she desired medication to treat her symptoms and offered psychotherapy to address the specific problem areas of spousal abuse, stress management, depression, anxiety and making appropriate life changes.

The record further includes the affidavits of , and In her November 17, 2006 affidavit, declared: that she cannot remember when it started, but the petitioner would call her and tell her that L-T- was staying out all night; that the petitioner told her that L-T- was being mean to her and she thought he was involved with someone else; and that the petitioner never told her the specifics of what was going on. In the September 20, 2006 affidavit of , Ms. declared: that from what she remembers, the marriage was stable until L-T- started going out all the time which made the petitioner upset; that on one occasion L-T- locked the petitioner out of her house and the petitioner walked to her [the affiant's] house for shelter and the petitioner "stayed the night because he never came to let her in." clarified in a December 12, 2007 affidavit that she never personally witnessed L-T- abuse the petitioner. In the November 27, 2006 affidavit of declared: that she moved from Arkansas to Memphis, Tennessee in 2002; that the petitioner would frequently call her and indicate that she was upset about the way L-T- was treating her; that she offered to care for the petitioner's daughter because the petitioner did not want her daughter around the turmoil; and that the petitioner and L-T- separated for good around the end of 2002 and the petitioner came to live with her at that time. clarified, in an undated affidavit submitted in response to the director's RFE, that she personally did not witness any physical or verbal attacks perpetrated by L-T- but overheard L-T- yelling and cursing at the petitioner when she would speak with the petitioner on the phone.

On appeal, counsel asserts that the petitioner was clearly the victim of abuse and extreme cruelty by her husband. The AAO has reviewed the statements from the petitioner's friends regarding the abuse the petitioner claims that she was subjected to by L-T-. The affiants declare that they did not personally witness any abuse. indicates that the petitioner was locked out of her own house at one point but does not provide further details regarding the location of the house or the circumstances that required the petitioner to stay the night at her house. There is insufficient information in the affidavits submitted to conclude that these affiants personally observed L-T- subjecting the petitioner to any abuse.

The AAO has also reviewed the September 28, 2006 letter written by and finds that does not identify when he interviewed the petitioner, the length of the session, and whether the petitioner's depression was directly related to the claimed spousal abuse. The AAO observes that does not provide any chronological, clinical, or substantive details of the abuser's alleged abuse and its effects on the petitioner. Moreover, although advised the petitioner to seek medication from her primary care physician and offered psychotherapy, the petitioner has not provided any evidence that she sought continued treatment. The AAO does not find that letter offers any probative details regarding the petitioner and the alleged abuse she suffered at the hands of L-T-.

Upon review of the petitioner's statements, the AAO finds that these statements are general in nature and lack probative detail. The petitioner in her statements speaks generally of verbal abuse and the negative impact of her husband coming home late at night and his involvement with another woman.

Similarly, the petitioner's claims that her husband was controlling, threatened her, and locked her out of their house when she defied him by leaving town, lack the specificity required to ascertain the truthfulness of the claims. Likewise, the petitioner's claim that her husband raped her on three occasions and slapped and hit her on one occasion is not sufficiently detailed. The petitioner fails to adequately detail the circumstances of these claimed events and does not provide any underlying support for these events. When evaluating the record as a whole, the AAO finds the record lacks definitive information regarding specific instances of abuse that should be categorized as battery or extreme cruelty. The AAO declines to accept generic information with little chronological timeline and no medical evaluations to establish eligibility for this benefit. The AAO is aware of the difficulties of obtaining information to substantiate eligibility for this benefit; however, the petitioner must provide some credible evidence that she has been subjected to battery or extreme cruelty perpetrated by her spouse in order to meet her burden of proof. In this matter, she has failed to do so .The AAO finds that as described the name calling and infidelity, even if substantiated, do not rise 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. The AAO finds that the petitioner's claims in regards to rape and physical assault are not sufficiently detailed and are not corroborated by witnesses to the attack or the impact of the attacks to conclude that the petitioner was subjected to battery.

As discussed above, the evidence contained in the record is insufficient to establish the petitioner's claim of abuse. Accordingly, the petitioner has failed to establish that she was battered or subjected to extreme cruelty by L-T- during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

Good Faith Marriage

The petitioner has provided the following documentation to establish that she entered into the marriage in good faith. The record includes:

Photographs of a ceremony, with three witnesses.

- A photocopy of the first page of an undated application for life insurance listing the petitioner as the owner and L-T- as the beneficiary.
- An October 2003 bank statement issued to the petitioner and L-T- at the [redacted] address in Little Rock.
- A Sprint bill listing a date of August 26, with unknown year, addressed to L-T- at the [redacted] address in Little Rock.
- A copy of L-T-'s uncertified 2001 Internal Revenue Service (IRS) Form 1040EZ, indicating he is single and claiming the single (as opposed to married) deduction on the Form and listing an address on [redacted] in Little Rock.
- A copy of the petitioner's uncertified 2002 and 2003 IRS Forms 1040, indicating she is head of household and showing the [redacted] address.
- A copy of the petitioner's uncertified 2004 and 2005 IRS Forms 1040, indicating

she is head of household and showing an address in Memphis, Tennessee.

The petitioner also provides the affidavits of and declared that she introduced the petitioner and L-T-, was around them when they dated, attended the wedding ceremony, and believed that they entered the marriage for all the right reasons. declared that she observed L-T- and the petitioner together while they were dating and after they were married and believes that their relationship and marriage were genuine. In her subsequent affidavit, declared: that the couple began their **married life at her house on , Little Rock, Arkansas; that during this time she was** taking care of her godmother and was rarely home; that her daughter, , was in town only two to five days each month; that she is not sure how long the couple lived at her house but once she heard how L-T- was treating the petitioner she moved back in to her house full time and asked them to find a new place to live; and that they moved to another location in Little Rock. although indicating that she lived in Arkansas prior to 2002 and has known the petitioner for a number of years, did not provide any information about the couple except as it relates to what she was told about the claimed abuse.

In the petitioner's personal statements, the petitioner declared: she met L-T- around Christmas 2000 when she was visiting Little Rock for the weekend; that introduced them at a party at her house; that once she returned to Memphis, she and L-T- communicated via telephone; that L-T- visited her in Memphis; she visited Little Rock once a month; and on Valentine's day in 2001, L-T- **proposed. The petitioner noted that after their marriage, she moved to Little Rock. In the** petitioner's subsequent statement, dated December 6, 2007, the petitioner indicated that she and L-T- lived mainly at the address in Little Rock during her marriage and left this house in late 2002 when moved back. The petitioner stated that they lived at a new address for the last few months of 2002; that L-T- kept the photographs of the couple; and that she filed her 2002 IRS 1040 as head of household because when she filed she and L-T- had already separated.

The AAO has reviewed the petitioner's statements and the statements submitted on her behalf. The petitioner has provided general information regarding her initial courtship and relationship with L-T-. The affidavits submitted on her behalf do not provide probative details regarding the affiant's observations sufficient to establish the petitioner's good faith entry into the marriage. The affidavits lack information regarding the petitioner and L-T-'s initial courtship and subsequent interactions and the circumstances of the subsequent interactions sufficient to establish the *bona fides* of the marriage. The AAO finds that the photographs although documenting a civil ceremony and showing the petitioner interacting with L-T- do not demonstrate the petitioner's good faith in entering her marriage. The AAO acknowledges the petitioner's statement regarding her inability to obtain photographs that may remain in L-T-'s possession; even if provided however, photographs of one-time events without the necessary detail establishing the underlying circumstances have little probative value.

In addition to the generality of the statements submitted, the record does not include any of the

suggested documentary evidence to substantiate the petitioner's good faith in entering the marriage. The first page of an undated application for an insurance policy naming the petitioner as the owner and L-T- as the insured is not acceptable to show that the petitioner entered into the marriage in good faith. The failure to provide the complete document and the issuance of the policy diminishes any probative value the incomplete application might have had. In addition, the petitioner does not provide copies of lease agreements or other credible information establishing a shared residence. As is further discussed on the joint residence issue below, the petitioner's information regarding the claimed shared residence contains inconsistencies and the information does not assist in establishing the petitioner's good faith in entering into the marriage. Further, the bank statement issued in October 2003, almost one year after the couple separated, casts doubt on the purpose of the bank account. It appears it was not established for the couple's shared assets as the petitioner has failed to close the account after her separation and move to another state. Moreover, the record does not include any evidence that the bank account was used during the marriage. Similarly, the Sprint bill addressed to L-T- does not establish the intent of the petitioner in entering the marriage. Upon review of the evidence in the record, the AAO finds that the record does not establish the petitioner's good faith in entering the marriage. The record does not include any independent indicia of the couple's life together and does not include any evidence that the petitioner actually intended to establish a life together with L-T-.

Joint Residence

Beyond the decision of the director, the AAO finds that the petitioner has not established a joint or shared residence with L-T-. The AAO notes inherent inconsistencies in the petitioner's statements, the statements submitted on her behalf, and information the petitioner provided to government agencies. For example, the AAO observes that the petitioner, in her response to the director's RFE, stated that she lived at two different addresses with L-T- in Little Rock, Arkansas, a statement confirmed by the affidavit of On the petitioner's Form I-360 and on the IRS Forms for 2002 and 2003 the petitioner listed only one address, the address on . The AAO also finds the petitioner's explanation regarding her filing as head of household in 2002 and the location of the address given to the IRS on her 2002 IRS Form 1040, inherently inconsistent, as she is claiming to reside at the "marital home" on in Little Rock when she is also claiming she is head of household because she had already separated and was living in Memphis. The AAO also notes that L-T-'s IRS Form 1040EZ filed for the 2001 year shows that he is single and is taking only the single deduction, when the marriage certificate provides shows that the couple wedded in April 2001.

The AAO also finds the affidavit of _____ inconsistent with the petitioner's indication on her Form G-325A, as declared that the couple initially resided at the address after their marriage, while the petitioner indicates on the Form G-325A that she initially resided at the street address. Upon review of the totality of the information in the record, the AAO finds the inconsistencies relating to the petitioner's claimed joint residence with L-T- suspect. 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). Similarly, the bank statement dated October 2003 issued to the petitioner and L-T- at the address in Little Rock, a date subsequent to the time the petitioner declares that she moved to Memphis, undermines the veracity of the statements submitted indicating that the couple resided at the address. As referenced above, it is unclear why the couple would continue to share a bank account in Little Rock, when the couple had separated, had indicated that the couple had moved from the address, and the petitioner was living in Memphis. The record does not include credible consistent evidence that the couple resided together during the marriage.

Good Moral Character

The regulation at 8 C.F.R. § 204.2(c)(2)(v) states that primary evidence of a petitioner's good moral character is an affidavit from the petitioner, accompanied by local police clearances or state-issued criminal background checks from each place the petitioner has lived for at least six months during the three-year period immediately preceding the filing of the self-petition. The record contains the petitioner's police clearance from the Shelby County Sheriff's Office in Memphis, Tennessee dated January 12, 2007. The petitioner did not provide any police clearances from the State of Arkansas where she claimed to live in 2001 and 2002. Although the petitioner's claimed residence with L-T- was five years prior to filing the Form I-360, U.S. Citizenship and Immigration Services (USCIS) has discretion to request additional clearances. In this matter, the director should request police clearances from the state where the petitioner claims to have resided with L-T- to establish the petitioner's good moral character.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd.* 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

Despite the petitioner's ineligibility based on the present record, this matter 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 grounds for the intended denial of the petition as cited in the foregoing discussion.

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. The petitioner has not sustained that burden.

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.