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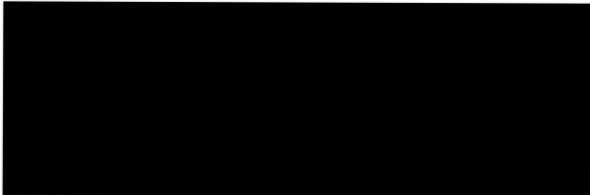
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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FILE: [REDACTED]
EAC 07 259 50382

Office: VERMONT SERVICE CENTER

Date: **AUG 04 2009**

IN RE: [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)

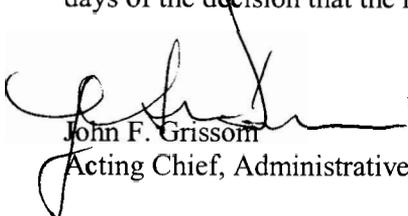
ON BEHALF OF PETITIONER:



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.

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 service center director denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(iii) of 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 on the basis of his determination that the petitioner had failed to establish: (1) that she shared a joint residence with her ex-husband; (4) that her ex-husband subjected her to battery or extreme cruelty; and (5) that she married her ex-husband in good faith.

Counsel filed a timely appeal on December 22, 2008.

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 explained further at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part, the following:

- (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 United States 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.

* * *

- (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 filed under section 204(a)(1)(A)(iii) of the Act are explained further at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part, the following:

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 petitioner is a citizen of Ghana who entered the United States on June 15, 2003. She married C-C-¹ a citizen of the United States, on April 10, 2007. She filed a divorce petition, and C-C- was served with a divorce summons on April 26, 2007. The petitioner's divorce petition was granted on February 6, 2008.

The petitioner filed the instant Form I-360 on September 4, 2007. The director issued a request for additional evidence on May 5, 2008, and requested, among other items, additional evidence to establish that the petitioner shared a joint residence with C-C-; that C-C- subjected her to battery or extreme cruelty; and that she married C-C- in good faith. The petitioner responded on July 28, 2008.

After considering the evidence of record, the director denied the petition on September 29, 2008. The decision was remailed on November 25, 2008.

Upon review of the entire record of proceeding, the AAO agrees with the director's decision to deny the petition.

Joint Residence

The first issue on appeal is whether the petitioner has established that she and C-C- shared a joint residence during their marriage. The petitioner and C-C- married on April 10, 2007 and, according to the petitioner, C-C- left the marital home eight days later on April 18, 2007.

In her August 1, 2007 self-affidavit, which was submitted at the time the petition was filed, the petitioner stated that C-C- began living in her apartment, located at [REDACTED] in Maplewood, Minnesota, in October 2006, after being "ejected" following a visit to Ohio to visit his daughter and family. According to the petitioner, [REDACTED], the father of her children, was

¹ Name withheld to protect individual's identity.

paying the rent for the apartment. The petitioner stated that C-C- stayed at her apartment on Tuesdays, Fridays, and Saturdays. She did not indicate where he lived the other four days of the week. They married on April 10, 2007. On April 18, 2007, C-C- left the residence in order to take custody of his daughter in Ohio, and he never returned. The petitioner filed for divorce later that month.

The petitioner also submitted a copy of the couple's application for a marriage license at the time the petition was filed. The AAO notes that, although the petitioner reported her address as the [REDACTED] residence, C-C- reported that he was living at an address in Toledo, Ohio. The couple's marriage certificate also stated that C-C- was living in Toledo, Ohio at the time of the wedding.

In her August 2, 2007 letter, [REDACTED] stated that she lived in the apartment next door to C-C- and the petitioner. [REDACTED] stated that she often saw the petitioner and C-C- enter the apartment on Tuesdays, Fridays, and on weekends.

In his May 5, 2008 request for additional evidence, the director noted that [REDACTED] had not provided the complete address at which she allegedly lived while living next door to the petitioner and C-C-. He also noted that although the petitioner had stated that C-C- began living with her in October 2006, he listed an address in Toledo, Ohio as his residence on the marriage license application. The director requested additional evidence from the petitioner to establish that she had shared a residence with C-C-, as well as clarification as to whether [REDACTED] the father of her children, was living with the couple.

In her July 23, 2008 self-affidavit, which was submitted in response to the director's request for additional evidence, the petitioner stated that [REDACTED] was not living with the couple. She stated that since she had no rental history or income, she could not qualify to rent an apartment on her own, so he rented the apartment for her and the children as a way to support them. With regard to C-C-'s claim to residence in Toledo at the time of the application for a marriage license, the petitioner stated that although C-C- began living with her several months before their wedding, he kept a separate address where he received his mail. She also stated that C-C- had wanted the couple to move to Ohio after their marriage, and that he was jealous of [REDACTED]. She surmised that he listed the Toledo, Ohio residence as his address on the marriage license because he is from Ohio. The petitioner stated that C-C- was secretive, and that she now knew that he probably wanted to hide things from her. With regard to evidence of a shared joint residence, the petitioner stated that they never had time to move to a new apartment as they had planned, or to open any joint accounts, because they were married for only a few weeks before C-C- left.² With regard to [REDACTED] letter, the petitioner stated that she tried contacting [REDACTED] after she received the director's request for additional evidence, but that she was unable to do so because [REDACTED] had relocated.

² Although the petitioner states in her July 23, 2008 affidavit that she and C-C- had been married "a few weeks" before C-C- left, her August 1, 2007 affidavit, as well as her testimony on the Form I-360, indicate that they had been married eight days when C-C- left.

The petitioner also submitted affidavits from [REDACTED] and [REDACTED], both of which were dated July 22, 2008. [REDACTED] stated that she had interacted with C-C- at the couple's home, and [REDACTED] made a similar declaration.

The director found the petitioner's response insufficient, and denied the petition. In his decision, the director found the testimony of [REDACTED] and [REDACTED] lacking in detailed information, and insufficient to establish that C-C- shared a joint residence with the petitioner. The director found that, considered in the aggregate, the record of proceeding failed to establish that C-C- shared a joint residence with the petitioner.

On the Form I-290B, which was received on December 22, 2008, counsel asserts that the petitioner has submitted extensive corroborating evidence to support her claim, and that the director's denial appears to have been based on the fact that the marriage was brief in duration. Counsel contends that the director should have placed more evidence on the petitioner's testimony.

In her January 15, 2009 appellate brief, counsel states that the director's decision illustrates a poor review of the record, and that he penalized the petitioner for the fact that the marriage was short-lived. Counsel recounts the testimony of the petitioner and the affiants, and states that all of their statements "are credible evidence that [the petitioner] and her [ex-] husband resided together."

Counsel asserts that the petitioner has "consistently and thoroughly explained to the Service that [C-C-] kept a prior mailing address in order to be secretive and keep his background concealed" from the petitioner. Counsel states that the petitioner also explained that she was fearful of C-C- receiving mail at the apartment, given that the apartment was rented to [REDACTED].

Upon review of the entire record of proceeding, the AAO agrees with the director's conclusion that the petitioner has failed to demonstrate that she shared a joint residence with C-C- between April 10, 2007 and April 18, 2007. In finding the record insufficient to establish the petitioner's claim, the AAO turns first to the director's concerns with regard to C-C-'s provision of a Toledo, Ohio address when asked for his current residence. The AAO disagrees with counsel's statement that the petitioner has "consistently and thoroughly explained to the Service that [C-C-] kept a prior mailing address in order to be secretive and keep his background concealed." The petitioner did no such thing. She did not address the matter in her first self-affidavit, and when the director raised the issue in his request for additional evidence, she stated the following:

Although [C-C-] started living with me about 6 or 8 months before we got married, he had kept a separate address where he got his mail. He was secretive, and now I know he probably wanted to hide things from me. I believe the address where he got mail was located on [REDACTED] in Minneapolis. . . .

* * *

[C-C-] wanted us to move to Ohio together after we got married. He was jealous of [REDACTED] the father of my children, and did not want us to live near him. That's probably

why [C-C-] listed our future address on the marriage license as Ohio. Maybe he considered Ohio his permanent address because that's where he was from.

The AAO disagrees with counsel's use of the word "consistently," because the petitioner addressed the matter only once. Asserting that the petitioner has been "consistent" implies that she has addressed the issue on more than one occasion. The AAO also disagrees with counsel's use of the word "thoroughly," because the petitioner's explanation was conjecture: she surmised that C-C- "probably wanted to hide things," and that "[m]aybe he considered Ohio his permanent address." The AAO does not consider that to be a "thorough" explanation.

The director specifically asked for an explanation as to why C-C- had listed his current address as a residence in Toledo, Ohio on the marriage license. The assertions of counsel and the petitioner with regard to C-C-'s "mailing address," which was apparently located at [REDACTED] in Minneapolis, do not address the issue of his provision of a Toledo, Ohio address on the marriage license. Nor do the assertions of the petitioner with regard to why C-C- listed the Toledo address as the couple's future address explain why he provided the Toledo address as the location of his then-current residence. The petitioner's only attempt at explaining why C-C- named the Toledo address as his then-current residence was her statement that "[m]aybe he considered Ohio his permanent address because that's where he was from." That single sentence, however, is insufficient. C-C-'s naming of the address in Toledo as his current address at the time the couple applied for the marriage license undermines the petitioner's claim that they had been living together since October 2006, and the AAO finds the petitioner's attempted single-sentence resolution of the matter insufficient, and she has elected not to provide additional testimony to clarify matters on appeal.

The AAO turns next to counsel's assertion that the director held the petitioner's affiants to "an impossible standard," stating the following:

[The director's decision] is a deviation from the above-cited legal precedent, which directs the Service to accept any credible evidence in establishing [the petitioner's] claim. The Service is not asserting that the witnesses are not credible, and their attestations should be accepted in support of her claim.

Counsel has misunderstood the "any credible evidence" standard to which she cites. Both the director and the AAO have accepted the evidence submitted by the petitioner, and both have considered it. However, while that evidence may be credible, it is insufficient to establish the petitioner's claim. Section 204(a)(1)(J) of the Act requires USCIS to "consider any credible evidence relevant to the petition." Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J). This mandate is reiterated in the regulation at 8 C.F.R. § 204.2(c)(2)(i). However, this mandate establishes an evidentiary standard, not a burden of proof. Accordingly, "[t]he determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of USCIS." Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i). The evidentiary guidelines for demonstrating the requisite battery or extreme cruelty lists examples of the types of documents that may be submitted and states, "All forms of relevant credible evidence will be considered." 8 C.F.R. § 204.2(c)(2)(iv). In this case, as in all visa petition proceedings, the

petitioner bears the burden of proof to establish his or her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965). The mere submission of relevant evidence of the types listed in the regulation at 8 C.F.R. § 204.2(c)(2) will not necessarily meet the petitioner's burden of proof. While USCIS must consider all credible evidence relevant to a petitioner's claim of abuse, the agency is not obligated to determine that all such evidence is credible or sufficient to meet the petitioner's burden of proof. Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i). To require otherwise would render the adjudicatory process meaningless. While the evidence of record may be credible, the AAO does not find it sufficient to satisfy the petitioner's burden of proof.

Although the petitioner offers a credible explanation as to why she lacks documentary evidence to establish that she shared a joint residence with C-C- during their marriage, the petitioner's own testimony does not establish that she resided with her husband from April 10, 2007 until C-C- reportedly left the marital home eight days later. The petitioner provides the former couple's address, but does not provide any probative information about their purported joint residence. For example, the petitioner does not describe in detail their neighborhood, their residential building, their apartment, their home furnishings, or any of their jointly-owned belongings.

More importantly, the petitioner's testimony conflicts with documentary evidence in the record. Again, she has not sufficiently addressed why C-C- provided the Toledo address as his current address when the couple applied for a marriage license, which undermines her claim that they were already residing together at that point.

Finally, and most importantly, the AAO notes that nearly all of the petitioner's testimonial evidence relates to the time period prior to the marriage. However, in order to establish eligibility under this criterion, the joint residence must have taken place during the marriage. As was noted previously, the petitioner stated herself that C-C- only stayed in her apartment on Tuesdays, Fridays, and Saturdays. As the couple married on April 10, 2007, a Tuesday, it would appear as though the couple had been married for nine days when C-C- left, and that C-C- would have only lived with her for four days of the marriage.

Considered in the aggregate, the relevant evidence fails to demonstrate that the petitioner shared a joint residence with C-C- during their marriage, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

Battery or Extreme Cruelty

The second issue on appeal is whether the petitioner has established that C-C- subjected her to battery or extreme cruelty during their marriage. As a preliminary matter, the AAO reminds counsel and the petitioner that the regulation at 8 C.F.R. § 204.2(c)(1)(vi) specifically states that the qualifying abuse "must have taken place during the self-petitioner's marriage to the abuser." As the petitioner and C-C- were married on April 10, 2007, the qualifying abuse must have occurred after that date.

The petitioner provided detailed testimony regarding incidents that occurred in December 2006 and in February 2007. However, as those incidents occurred before the couple was married, they may not be considered instances of “qualifying abuse.” The record contains very little testimony regarding the relationship between the couple after their marriage. However, the petitioner did briefly address the issue in her August 1, 2007 self-affidavit:

We had a wonderful, quiet wedding at the Ramsey Courthouse on April 10th accompanied by 4 others. When we got home, I prepared dinner and he promised to take care of us. A week after, on the 18th of April 2007, [C-C-] had already told me he had to travel to Ohio to get custody of his daughter who lost her mother, she was coming to live with us when we move to this new place. . . .

The petitioner did not indicate that any of the abuse she described in her testimony occurred during the eight days during which they allegedly lived together after their marriage.

Nor does the other information of record establish that the petitioner was abused by C-C- during their marriage. In her July 20, 2007 letter [REDACTED], a prenatal case manager at Catholic Charities, stated that the petitioner was a client of Catholic Charities between April 2006 and January 2007. Accordingly, any abuse that the petitioner would have discussed with [REDACTED] would have occurred prior to the marriage.

Furthermore, there are evidentiary problems with [REDACTED]’s testimony. [REDACTED] stated in her July 20, 2007 letter that the father of the petitioner’s child was emotionally and verbally abusive, and that he had threatened to withdraw his financial support and leave her homeless. In his May 5, 2008 request for additional evidence, the director noted that since C-C- was not the father of any of the petitioner’s children, it was unclear whether [REDACTED] was referring to C-C- or [REDACTED] in her testimony. In response, [REDACTED] submitted an updated letter on June 12, 2008. In her updated letter, [REDACTED] stated that when she had reported abuse by the father of the petitioner’s child, she had actually been referring to C-C-. She stated that the petitioner had told her that C-C- had controlled her actions by threatening to withdraw his financial support, which would have left her and the children homeless. However, [REDACTED] testimony is not consistent with the other testimony of record. The petitioner’s testimony indicates that [REDACTED] was paying for the rent and utilities on the apartment. Given that he was apparently doing so before C-C- moved into the apartment, it is unclear how the withdrawal of C-C-’s financial support would have rendered her homeless. The AAO also notes that counsel states specifically on appeal that C-C- “did not have a job or income, and simply resided with [the petitioner] and her children.” If [REDACTED] was paying for the rent and the utilities, and C-C- did not have a job or income, it is unclear how C-C- would have been able to exert financial control over the petitioner, or how the loss of his “support” could have rendered the petitioner homeless.

In her June 10, 2008 letter, [REDACTED] an employment counselor, stated simply that the petitioner had described “several incidences of physical, sexual, verbal, and emotional abuse that occurred both before and after they were married.” However, that statement is too general to establish the petitioner’s claim. [REDACTED] does not offer detailed and probative information regarding

specific instances of abuse that occurred during the marriage. Therefore, her letter is of little evidentiary value.

Nor does the November 7, 2007 "Encounter Summary" establish that C-C- subjected the petitioner to battery or extreme cruelty during the marriage, as it does not contain information on specific instances of abuse that occurred during the marriage.

Nor do the affidavits from [REDACTED], and [REDACTED] or [REDACTED] establish that the petitioner was subjected to battery or extreme cruelty after the petitioner and C-C- were married. Again, they do not contain information on specific instances of abuse that occurred during the marriage. Nor does it appear that any of these individuals witnessed any instances of abuse; rather, it appears as though their testimony is based upon that of the petitioner. Although counsel reiterates the petitioner's account of the abuse to which she was allegedly subjected on appeal, she fails to indicate whether that abuse occurred after the wedding. Again, the regulation at 8 C.F.R. § 204.2(c)(1)(vi) specifically states that the qualifying abuse "must have taken place during the self-petitioner's marriage to the abuser." The AAO is without authority to waive that regulatory requirement.

The petitioner has failed to establish that C-C- subjected her to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

Good Faith Entry into Marriage

The third issue on appeal is whether the petitioner has established that she married C-C- in good faith. The AAO agrees with the director. The petitioner described her early relationship with C-C- in her August 1, 2007 self-affidavit. According to the petitioner, she met C-C- at a medical clinic when she was two months into pregnancy with her son (he was born on November 4, 2006). The petitioner explained how C-C- occupied her older son with books and toys as she prepared to see the doctor, and helped her with the stroller. They exchanged telephone numbers, and met for a lunch date. She stated that she fell in love with C-C- on May 30, 2006, after he gave her a flower and told her that he loved her. According to the petitioner, she had prayed for a mature man in his forties who loved children, was hardworking, and was ready to support, respect, and encourage her, both spiritually and intellectually, and C-C- was a match for her prayers. The petitioner indicated that he moved into her apartment in October 2006. The petitioner submitted several photographs of the couple taken on their wedding day.

In his May 5, 2008 request for additional evidence, the director stated that although pictures of the wedding day were submitted, they served only to demonstrate that a ceremony was in fact performed. However, as noted by the director, the petitioner did not submit photographs that were taken at any other time during their relationship. Nor did she submit any evidence to establish that she and C-C- had any joint assets, accounts, or commingling of funds. Accordingly, the director requested additional evidence in support of her assertion that she had married C-C- in good faith.

In her July 23, 2008 self-affidavit, the petitioner stated that C-C- left for Ohio so quickly after their wedding that they did not have time to move to a new apartment or open any joint accounts.

In his denial, the director found the photographs and testimony of record insufficient to establish that the petitioner had entered into the marriage in good faith.

On appeal, counsel summarizes the testimony of the petitioner and [REDACTED] and states that the testimony of record was “grossly overlooked” by the director.

Upon review of the entire record of proceeding, the AAO finds that the director properly denied the petition on this ground. First, the AAO finds the testimony of the petitioner’s affiants of little value in demonstrating that she married C-C- in good faith. Despite counsel’s assertions otherwise, the AAO finds their testimony insufficient. The AAO finds the testimony of the petitioner’s affiants, including that of [REDACTED] vague and lacking in detailed, probative information.

Nor is the testimony of the petitioner sufficiently detailed to establish that she married C-C- in good faith. Again, her testimony is vague and lacking in probative details. There is little information regarding their courtship, beyond the description of one dinner at [REDACTED], such as the types of activities they enjoyed together. Nor is there any discussion of their decision to marry, or their engagement. The photographs provided by the petitioner indicate that she and the C-C- were together on the day on which they married. While the testimonial evidence of the petitioner is credible, it is insufficiently lacking in probative detail to establish her claim. The petitioner has failed to establish by a preponderance of the evidence that she entered into marriage with C-C- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Conclusion

The AAO agrees with the director’s determination that the petitioner has failed to establish that she shared a joint residence with C-C-; that C-C- subjected her to battery or extreme cruelty during their marriage; or that she married C-C- in good faith. The petitioner, therefore, is ineligible for immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.