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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 and Immigration Services

B9

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JUN 29 2009

EAC 05 189 52307

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.

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, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The 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 because the petitioner did not establish that he resided with his wife, married her in good faith, and that his wife subjected him to battery or extreme cruelty during their marriage.

On appeal, counsel submits a brief, additional evidence and copies of documents previously submitted.

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 explicated 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.

* * *

(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 further explicated 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 case provides the following pertinent facts and procedural history. The petitioner is a native and citizen of Nigeria who was admitted into the United States as a B-2 nonimmigrant for pleasure, reportedly on February 5, 2001. On November 7, 2002, the petitioner married D-H-[1], a U.S. citizen, in Arlington, Virginia. On November 21, 2002, D-H- filed a Form I-130, Petition for Alien Relative, on the petitioner's behalf, and the petitioner concurrently filed a Form I-485, Application to Register Permanent Resident or Adjust Status, both of which were denied due to abandonment on April 15, 2005 and April 25, 2005, respectively.

The petitioner filed the instant Form I-360 on June 20, 2005. On September 9, 2005, the director issued a Request for Evidence (RFE) of, *inter alia,* the requisite joint residency, good-faith entry into the marriage, battery or extreme cruelty, and good moral character. The petitioner, through counsel, requested additional time to respond. On February 28, 2007, the director issued a Notice of Intent to Deny (NOID) the petition for lack of, *inter alia*, the requisite joint residency, good-faith entry into the marriage, and battery or extreme cruelty. The petitioner, through counsel, timely responded to the NOID with additional evidence. On June 8, 2007, the director denied the petition on the three aforementioned grounds. Counsel timely appealed.

On appeal, counsel claims that the director abused his discretion in dismissing the petitioner's claim of abuse, as the record contains reports from Woodley House, Inc. and from Green Door, a letter from and a psychosocial evaluation from "one of the leading licensed clinical social workers in the field in the Washington D.C. metropolitan area" (referring to the May 20, 2005 report from . Counsel further claims that the evidence of record also demonstrates that the petitioner and his wife resided together and that their marriage was bona fide from its inception.

Joint Residence

The record contains the following evidence relevant to the petitioner's claim that he resided with his wife:

- The petitioner's statement dated May 23, 2005, and his affidavit dated April 26, 2007;
- Counsel's letters dated May 22, 2005; January 10, 2006; April 27, [2007], and August 4, 2007 (the latter submitted on appeal);
- The petitioner's Form I-485, Application to Register Permanent Resident or Adjust Status, reflecting the petitioner's address as: in Alexandria, Virginia, signed by the petitioner on November 14, 2002;
  The petitioner's Form G-325A, Biographic Information, on which he stated that he resided at the " address from June 2001 until he signed the form on

[1] Name withheld to protect individual's identity.

November 14, 2002;

- Copy of a letter from the IRS, dated May 17, 2004, addressed to the petitioner and his spouse at: in Washington, D.C.;
- Copies of the petitioner's 2003 W-2 forms addressed to the petitioner at:
- A letter, dated January 3, 2007, from the Social Security Administration addressed to D-H- at the ' address in Washington, D.C.;
- Copies of two bank statements, dated April 15, 2005 and May 16, 2005, respectively, addressed to the petitioner and his spouse at the " address; and
- The court documents for the petitioner's wife.

On the Form I-360, the petitioner stated that he resided with his wife from the date of their marriage on November 7, 2002 until October 11, 2004, and that the last address at which they resided together was: , Washington, D.C. In his denial, the director finds that the petitioner has not explained the discrepancies pertaining to the petitioner's claimed joint addresses with his spouse. For example, the May 17, 2004 letter from the IRS, for the "Tax Period: Dec. 31, 2003" is addressed to the petitioner and his wife at the " address in D.C., while the petitioner's 2003 W-2 forms reflect the petitioner's address as: . In addition, the documents from the District Court of Maryland for Washington County, dated April 29, 2003 and May 3, 2003, show the last known address for the petitioner's wife as: Maryland, and the documents from the same court, dated February 4, 2004, May 6 – 7, 2004, October 21, 2004, and May 2 - 3, 2005, respectively, show the following addresses for the petitioner's wife: 50 Hagerstown, Maryland; and Hagerstown, Maryland. The Case History document, dated May 18, 2005, from the Circuit Court for Washington County shows the updated ' " address, entered on May 6, 2005, for the petitioner's wife. The director also notes that, although the two bank statements, dated April 15, 2005 and May 16, 2005, respectively, are addressed to the petitioner and his spouse at the " address, they are both dated after the petitioner claims he separated from his spouse.

On appeal, counsel asserts that he addressed the discrepancies in his May 22, 2005 letter submitted at the time of filing and in his January 10, 2006 letter submitted in response to the director's RFE. In his May 22, 2005 letter, counsel states that after the petitioner's marriage to D-H- on November 7, 2002, "they moved into a small apartment together in Virginia" and three months later, they "moved to Landover, Maryland where they lived in the " Counsel describes the abuse by D-H-, and states that the petitioner and his spouse then moved to Washington D.C. to live with his mother, and that, in July 2003, D-H- "walked out of the Apartment and was not heard from for several months until [the petitioner] was informed that she had been incarcerated." Counsel states that the petitioner and D-H- were reunited after her release from jail and that she left permanently in April 2004. In his January 10, 2006 letter, counsel states that the address on the petitioner's 2003 W-2 forms is the address of the petitioner's mother, with whom the petitioner currently resides. Counsel explains that when the petitioner first worked at the Giant food store, he lived in Landover, which is the address on the W-2 forms. It is also noted that in his April 27, [2007] letter, counsel states that the Social Security Administration sent a letter to D-H- at the last address where she and the petitioner resided.

Counsel concludes, "The fact that there is contradictory evidence of [D-H-'s] abode does not in any way negate the fact that [D-H- and the petitioner] had lived together and shared a life together."

In his May 23, 2005 statement submitted in response to the director's RFE, the petitioner states that immediately after their marriage, he and his wife resided at: in Alexandria, Virginia, which was an apartment that belonged to his uncle. The petitioner states that in February 2003, he and his wife moved to . in Landover, Maryland, but the landlady did not want his wife to stay in the apartment. The petitioner states that he then moved to the apartment where his mother lived because he could not afford the rent at the '." address and because he worked for the Giant Food store in Chevy Chase, Maryland. The petitioner explains that his sister's name is on the lease of his mother's apartment at the '." address in D.C., which his sister has leased for their mother for over eight years. In his April 26, 2007 affidavit, the petitioner states that he and [D-H-] "lived at different times in Virginia, Maryland and [Washington, D.C.]." He states further that they lived together until October 17, 2004.

As noted by the director, the record contains inconsistencies regarding the petitioner's claimed joint addresses with his spouse. Counsel's explanations on appeal and in his May 22, 2005, January 10, 2006, April 27, [2007], and August 4, 2007 letters do not resolve these inconsistencies. In fact, some of counsel's statements regarding this issue conflict with the petitioner's statements. For example, counsel states in his January 10, 2006 letter that the address on the petitioner's 2003 W-2 forms (, Landover, Maryland) is the address of the petitioner's mother, with whom the petitioner currently resides. According to the petitioner, however, his mother's address is the ' " address in Washington, D.C. Counsel also states in his May 22, 2005 letter that [D-H-] left the petitioner permanently in April 2004, which conflicts with the petitioner's April 26, 2007 statement that he and D-H- have not lived together since October 17, 2004. It is also noted that counsel's statement in his January 10, 2006 letter that the address on the petitioner's 2003 W-2 forms Landover, Maryland) is the address of the petitioner's mother, conflicts with counsel's own statement in his May 22, 2005 letter that the petitioner's mother has a Washington D.C. address. Moreover, as discussed above, the court documents dated from 2003 through 2004 show the petitioner's spouse residing at . in Capitol Heights, Maryland, and at , in Hagerstown, Maryland, during the time period the petitioner claims they were residing together. Neither counsel nor the petitioner resolves these discrepancies. While the petitioner is not required to have lived with his wife for any specific amount of time, his inconsistent information regarding his claimed joint residences with his wife detracts from the credibility of his testimony on this issue.

As noted by the director, the bank statements are addressed to the petitioner and D-H- at the ' " address in Washington, D.C., which is where the petitioner allegedly resides with his mother. In his January 10, 2006 letter, counsel states that the withdrawals on the May 16, 2005 bank statement show that D-H- continued to withdraw funds from an unknown location in Hagerstown, Maryland. The bank statements, although indicating that the petitioner and his former spouse had a joint bank account, do not demonstrate that the petitioner and D-H- resided together. Moreover, both bank statements are dated after the petitioner's claimed October 11, 2004 separation date from D-H-, as reflected on the petition. It is also noted that the letter, dated January 3, 2007, from the Social Security

Administration addressed to the D-H- at the '[redacted]' address in Washington, D.C., is also dated after the petitioner's claimed October 2004 separation date from D-H-. Again, the letter from the Social Security Administration does not demonstrate that the petitioner and D-H- resided together.

In sum, the relevant evidence provides intermittent documentation and documentation dated after the petitioner's claimed separation from his wife, and contains unresolved discrepancies regarding the petitioner's alleged residence with his wife. Consequently, the petitioner has not established by a preponderance of the evidence that he resided with his wife, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

Good Faith Entry into Marriage

In his May 23, 2005 statement, the petitioner states that he first met D-H- in February of 2002 at a house party, where they were introduced by a mutual friend. The petitioner reports that they dated for ten months, during which time D-H- represented herself as employed in the cabinet making/carpentry industry. The petitioner, however, does not further describe their courtship, decision to marry, their wedding or any of their shared experiences, apart from the alleged abuse. In his April 26, 2007 affidavit, the petitioner states that he met D-H- at a get-together at a mutual friend's place in Virginia in January of 2002, but provided no further relevant information.

The petitioner claims that he and his wife lived together from the date of their marriage on November 7, 2002 until October of 2004. However, as discussed in the preceding section, the record contains only intermittent joint documentation, the majority of which is dated after the petitioner's claimed October 2004 separation date from his wife.

In his May 22, 2005 letter, counsel reports shared experiences that the petitioner himself does not discuss in either of his statements. Specifically, counsel asserts that the petitioner became a part of his wife's extended family, as did the petitioner's wife become a part of the petitioner's, and that both mothers were well acquainted with each other and "did several family gatherings together." Such inconsistencies between the petitioner's testimony and counsel's letter detract from the probative value of the petitioner's claim to have entered into his marriage in good faith. In addition, in his January 10, 2006 letter, counsel states that he is "submitting several affidavits from persons attesting to the genuineness of [the petitioner and D-H-'s] marriage." The record, however, does not contain any of the so-described affidavits.

The AAO acknowledges the photographs submitted by the petitioner, including four of the petitioner and D-H- on their wedding day, two of the petitioner and D-H- in more informal settings, and one photograph of the petitioner with D-H- and three other, unnamed persons. The photographs of the petitioner and D-H- confirm that they were married and pictured together, and pictured with three other, unnamed individuals. These documents alone, however, are insufficient to establish that the petitioner married D-H- in good faith, given the unresolved deficiencies and discrepancies discussed above.

The petitioner is not required to submit preferred primary or secondary evidence. *See* 8 C.F.R. §§ 103.2(b)(2)(iii), 204.1(f)(1), 204.2(c)(2)(i). However, the record contains inconsistent information regarding the claimed shared experiences of the petitioner and his wife, as discussed above. Moreover, the lack of probative detail and substantive information in the petitioner's testimony regarding his courtship with D-H-, their decision to marry, their wedding, and shared residences and experiences, other than the alleged abuse, significantly detracts from the credibility of his claim. In sum, the relevant evidence fails to demonstrate that the petitioner entered into marriage with his wife in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Battery or Extreme Cruelty

We affirm the director's determination that the petitioner did not establish the requisite battery or extreme cruelty. In addition to the documentation listed above, the record contains the following, relevant evidence:

- The December 2, 2004 letter from
- The May 20, 2005 letter from Superior Evangelist from the Celestial Church of Christ in Cheverly, Maryland;
- The May 20, 2005 affidavit from ;
- A Diagnostic Assessment of the petitioner from Woodley House, Inc., dated June 7, 2005;
- An Adult Individual Recovery Plan for the petitioner from Woodley House, Inc., dated October 1, 2005;
- The petitioner's clinical records and drug orders from Woodley House, Inc., dated August 30, 2005 (partial record only), July 18, 2006, August 15, 2006, September 12, 2006, September 26, 2006, October 24, 2006, and November 28, 2006;
- The petitioner's clinical records from Green Door, dated January 10, 2007, February 21, 2007, March 21, 2007, April 4, 2007, and May 2, 2007; and
- The May 2, 2007 letter from

In his May 23, 2005 statement, the petitioner states that several weeks after living with his wife, he discovered that she was unemployed. The petitioner states that, on occasion, his wife informed him that she was staying with her sister, but when he called the contact number, it turned out to be an exotic dancers' bar. The petitioner reports that on one occasion, when he tried to visit his wife at her sister's place, there were strange men outside the apartment who would not allow him in. The petitioner states that his wife began to use alcohol and he suspected that she was also using drugs, but when he confronted her, she threatened to "hurt" him. The petitioner explains that he feared for his own safety because of his suspicions that, not only was his wife having extra-marital affairs, but also she would get drug dealers to harm him. The petitioner states that his marital problems caused him such anxiety that he had to see a doctor and was prescribed anti-depressant and other medications. The petitioner explains that he no longer socializes with friends and does not have the motivation to retake the New York bar examination or apply for a driver's license.

In his April 26, 2007 affidavit, the petitioner states that when he married D-H-, he did not know that

his wife was violent and was into drugs and drinking. The petitioner states that his wife spent many days with her family in Hagerstown, Maryland, and got into much trouble there. The petitioner explains that she eventually left him and emptied their bank account. The petitioner states that during an argument, she knocked out his teeth and he had to go to a dentist for a replacement, but, because the petitioner has no job, work visa, or insurance to cover it, the dentist has not finished the crown. The petitioner states that he is undergoing psychiatric and behavioral treatment due to his pain, suffering, emotional anguish, and lack of self esteem. The petitioner also states that his relationship with his wife has put him in a state of acute depression and that he lives in permanent fear of the "immigration" people. The petitioner states that, because of his wife's cheating and making derogatory remarks about him, he feels worthless, is unable to socialize, and has poor personal hygiene.

In his May 22, 2005 letter, counsel again reports incidents that petitioner himself does not discuss in either of his statements. For example, counsel states the petitioner "oftentimes . . . resort[ed] to borrowing money from his aged mother to pacify his wife." Counsel also described an incident when the petitioner refused to give his wife money to bail out one of her daughters, whereupon she "punched him with a closed fist across his face," and states further that the petitioner's wife "slapped him on two more occasions." Again, such inconsistencies between the petitioner's testimony and counsel's letter detract from the probative value of the petitioner's claim.

In addition to the evidence discussed above, the petitioner submitted a December 2, 2004 letter from , who states, in part, that the petitioner was referred by and was "complaining of difficulty in swallowing and increased salivation when he is anxious" and "feeling depressed due to lack of female companion etc." states that a neurological examination of the petitioner was essentially unremarkable, and finds that the petitioner may be having anxiety attacks. recommends medication and concludes, "If he still continues to have symptoms, then he probably needs to see a psychiatrist."

The record also contains a May 20, 2005 letter from Superior Evangelist from the Celestial Church of Christ in Cheverly, Maryland, who states that the petitioner consulted him about his marital problems and that, in his opinion, the petitioner's emotional health substantially deteriorated after his wife's incarceration. reiterates the petitioner's marital history and observes that the petitioner "is slowly re-integrating himself into the community and reaching out for help to address his emotional well-being."

The record also contains a May 20, 2005 affidavit from , who states that the petitioner requested a psycho-social evaluation "to determine the extent psychological and emotional abuse he suffered during his marriage to [D-H-]." states that the psycho-social evaluation was conducted in her office with the petitioner, his sister, and telephone interviews with the petitioner's mother, and that "[t]he interviews were supplemented by various telephone conversations and a review of pertinent documents." reiterates the petitioner's claims of abuse by his wife and states further that the petitioner's wife left him permanently in April 2005, which conflicts with the petitioner's claim that she left him permanently in October 2004, and with counsel's claim that she left

the petitioner permanently in April 2004. quotes Virginia law to state that the petitioner's abuse is consistent with the definition of spousal abuse.

The record also contains a Diagnostic Assessment of the petitioner from Woodley House, Inc., dated June 7, 2005, describing the petitioner's marital history with D-H-, diagnosing the petitioner with Obsessive-Compulsive Disorder (OCD), and recommending, in part, regular counseling/therapy and participation in a men's group.

The record also contains an Adult Individual Recovery Plan for the petitioner from Woodley House, Inc., dated October 1, 2005, explaining that the petitioner is "looking for help for his depression precipitated by [the] separation from [his] wife." In the section entitled, "What I want to improve about my life," the petitioner states: "Get out more often" and "Obtain my green card so I can function better."

The record also contains the petitioner's clinical records and drug orders from Woodley House, Inc., dated August 30, 2005 (partial record only), July 18, 2006, August 15, 2006, September 12, 2006, September 26, 2006, October 24, 2006, and November 28, 2006. In the petitioner's clinical records for 2006, identifies the petitioner's problem as OCD and prescribes a medication plan for him.

The record also contains the petitioner's clinical records from Green Door, dated January 10, 2007, February 21, 2007, March 21, 2007, April 4, 2007, and May 2, 2007. In the January through March records, the petitioner's problem is identified as OCD, and all of the reports indicate that the petitioner continues to take medication.

The record also contains a May 2, 2007 letter from , who states that the petitioner has been diagnosed with obsessive-compulsive disorder and major depressive disorder, and is currently under his treatment, receiving psychotherapy and medication to treat his symptoms. states further that it is his clinical opinion that the origin of the petitioner's mental illness is having been the victim of spousal abuse, "which has been documented as ranging from increased financial stress to the introduction of sexually-transmitted diseases into the home."

The letters from and , the affidavit from and the clinical reports and assessments also fail to establish that the petitioner's wife subjected him to battery or extreme cruelty. concludes that a neurological examination of the petitioner was essentially unremarkable and finds that the petitioner may be having anxiety attacks. does not provide any information indicating that the petitioner is suffering from a mental health condition due to the abuse of the petitioner's wife.

, reiterates the petitioner's marital history, as it was told to him, and states that he and his church are trying to assist the petitioner "in becoming a healthy wholesome individual spiritually and emotionally." , however, does not indicate that he ever witnessed the petitioner and his wife together. Nor does he provide any probative details regarding the petitioner's relationship with his wife and their interactions with each other.

reiterates the petitioner's claims of abuse and states that the petitioner's abuse is consistent with the definition of spousal abuse under Virginia law. She, however, does not specify the date or length of her psycho-social evaluation of the petitioner. Moreover, although she states that the petitioner's sister was also present during the evaluation, that she conducted telephone conversations with the petitioner's mother, and that the "interviews were also supplemented by various telephone conversations and a review of pertinent documents," she does not specify any details of such interviews and telephone conversations or identify the pertinent documents to which she refers. In addition, Ms. s report that the petitioner's wife left him permanently in April 2005 is inconsistent with the petitioner's claim that she left him permanently in October 2004.

states in his May 2, 2007 letter that the petitioner has been diagnosed with obsessive-compulsive disorder and major depressive disorder, and is currently under his treatment, receiving psychotherapy and medication to treat his symptoms. states further that it is his clinical opinion that the origin of the petitioner's mental illness is having been the victim of spousal abuse, "which has been documented as ranging from increased financial stress to the introduction of sexually-transmitted diseases into the home." Although states that it is his opinion that the origin of the petitioner's mental illness is spousal abuse, he does not provide any discussion of such abuse in support of his opinion. Moreover, a review of the petitioner's medical reports and assessments finds no indication that the petitioner is being treated for any sexually transmitted diseases. While we do not question the expertise of , the record contains numerous deficiencies and unexplained inconsistencies, as discussed above, that detract from the probative value of testimony.

In this case, we do not find the petitioner's evidence to be credible or sufficient to meet the petitioner's burden of proof. In his denial, the director found that the petitioner had not submitted evidence in support of his claim that he went to the dentist for dental work after his wife allegedly knocked out his teeth. On appeal, counsel states that the director's focus on such "trivial and minor details" is insulting. However, in light of the numerous inconsistencies and deficiencies in the record, we determine the director's concern to be reasonable. The petitioner's claims of battery by his wife are equivocal and do not fully resolve the numerous discrepancies in the record. The petitioner has not provided any credible evidence in support of his claim of abuse, which includes getting his teeth knocked out by D-H-. Nor has the petitioner explained the numerous inconsistencies in the record that diminish the evidentiary value of his statements. As described, the actions by the petitioner's wife do not rise to the level of the acts described in the regulation at 8 C.F.R. § 204.2(c)(1)(vi), which include forceful detention, psychological or sexual abuse or exploitation, rape, molestation, incest, or forced prostitution. The claims made by the petitioner fail to establish that he was the victim of any act or threatened act of physical violence or extreme cruelty, that his wife's non-physical behavior was accompanied by any coercive actions or threats of harm, or that her actions were aimed at insuring dominance or control over the petitioner.

Upon review of the record in its entirety, the record does not indicate that the petitioner's wife subjected him to battery. The relevant evidence also fails to demonstrate that the petitioner's wife subjected him to extreme cruelty during their marriage. Accordingly, the petitioner has not established

battery or extreme cruelty, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

The petitioner has not demonstrated that he resided with his wife, married her in good faith, and that his wife subjected him to battery or extreme cruelty during their marriage. He is consequently ineligible for immigrant classification pursuant to section 204(a)(1)(A)(iii) of the Act and his petition must be denied.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.