

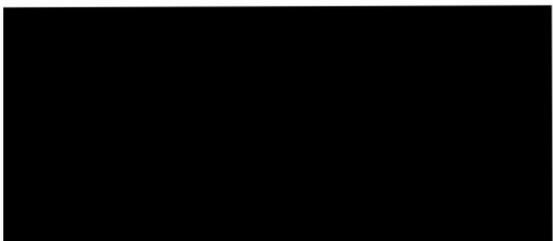
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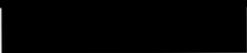
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: MAR 09 2009

EAC 06 201 50136

IN RE:



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 husband; (2) that her husband subjected her to battery or extreme cruelty; and (3) that she entered into marriage with her husband in good faith.

The petitioner submitted a timely appeal on July 16, 2007.

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 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.
- (ii) *Relationship.* A self-petition file by a spouse must be accompanied by evidence of . . . the relationship. Primary evidence of a marital relationship is a marriage certificate issued by civil authorities. . . .
- (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 of proceeding establishes the following pertinent facts and procedural history: The petitioner is a citizen of Cambodia who entered the United States in B-2 visitor status on July 4, 2001. She married S-V-,<sup>1</sup> a United States citizen, on October 16, 2001. S-V- filed Form I-130, Petition for Alien Relative, on behalf of the petitioner on December 11, 2001. The petitioner filed Form I-485, Applicant to Register Permanent Residence or Adjust Status, on that same date. The Forms I-130 and I-485 were denied on January 7, 2005. According to the Form I-360, the petitioner and S-V- shared a residence from October 2001 until February 2002.

The petitioner filed the instant Form I-360 on June 9, 2006. On January 12, 2007, the director issued a request for additional evidence, and requested additional evidence to establish that the petitioner shared a joint residence with S-V-; that she was subjected to battery and/or extreme cruelty by S-V-; that she is a person of good moral character; that she married S-V- in good faith; and that she was eligible to marry S-V- on October 16, 2001. On March 12, 2007, counsel requested additional time in which to respond to the director's request. The director issued a notice of intent to deny (NOID), for the same reasons as set forth in the request for additional evidence, on May 1, 2007. The petitioner responded to the NOID on May 17, 2007, and submitted additional evidence.

After considering the evidence of record, the director denied the petition on June 21, 2007.

On appeal, counsel submits a brief and additional information. Upon review of the entire record of proceeding, the AAO agrees with the director's decision to deny the petition.

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

### Joint Residence

The first issue on appeal is whether the petitioner has established that she shared a joint residence with S-V-. On their Forms G-325A, Biographic Information, both of which were signed on November 26, 2001, both S-V- and the petitioner stated that they began living at [REDACTED] in Houston, Texas in July 2001. However, in his April 17, 2006 affidavit, [REDACTED] who owned the property located at [REDACTED] in Houston, stated that he began renting it to S-V- and the petitioner after their marriage in October 2001.

In her testimony, the petitioner also indicated that she and S-V- did not begin living together at the [REDACTED] until after their October 2001 marriage. For example, in her April 11, 2006 affidavit, the petitioner provided the following timeline:

- She entered the United States on July 4, 2001.
- She met S-V- later that month.
- She and S-V- dated for "about a month."
- One month and a half into the relationship, S-V- proposed marriage. The petitioner felt that things were moving too quickly, and declined the proposal.
- One month after his first marriage proposal, S-V- proposed marriage again. The petitioner accepted.
- One month later, the S-V- and the petitioner married.

After their marriage, they had very little money, and they moved into the [REDACTED] house at [REDACTED]

Accordingly, the testimony of both [REDACTED] and the petitioner are inconsistent with the Forms G-325A of record. Further, the petitioner stated on the Form I-360 that she and S-V- resided together from October 2001 until February 2002, which also contradicts the couple's testimony on their Forms G-325A that they began living together in July 2001, as well as the testimony of her May 7, 2007 affidavit, in which she stated that she and S-V- resided together for four months. The director raised this inconsistency in his decision, and counsel has elected not to explain it on appeal. 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). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* This inconsistency undermines the credibility of both the petitioner and [REDACTED] and weakens the evidentiary weight that the AAO will accord to their assertions.

As further evidence of her assertion that she shared a joint residence with S-V-, the petitioner submits copies of driver's licenses, voter registration cards, and bank statements. Although the driver's licenses both list the [REDACTED], the AAO notes that they were issued four

years apart – the petitioner’s driver’s license expires August 19, 2001; S-V-’s license expired October 18, 2007 – and thus are not evidence that they shared a residence. The voter registration cards indicate that S-V- resided at the [REDACTED] address. However, as noted by the director, the voter registration cards were issued on January 1, 2004, a date which is nearly two years after the petitioner stated that S-V- left the residence on the Form I-360. The two banking statements, which cover the periods August 1, 2003 through September 30, 2003, and October 1, 2003 through December 31, 2003, also list S-V- as residing at [REDACTED]. Again, the petitioner stated on the Form I-360 that S-V- left the marital residence in February 2002. In his denial, the director found that, since these documents cover periods of time during which the petitioner reported that she and S-V- did not live together, they are not evidence of a shared joint residence. On appeal, counsel states that these are government-issued documents, and describes them as evidence of a shared joint residence. However, counsel chose not to respond to the director’s findings with regard to the timeframes during which these documents were issued. Again, 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* at 591-92. Given the concerns voiced by the director over these documents, which the AAC shares, as well as counsel’s failure to respond to those concerns on appeal, the AAO will not accept the driver’s licenses, voter registration cards, or S-V-’s bank statements as evidence of a shared joint residence.

Finally, the AAO turns to the affidavits of [REDACTED] and [REDACTED] which, according to counsel, also constitute evidence of a shared joint residence. However, the director noted inconsistencies between their testimony and that of the petitioner. For example, [REDACTED] stated that he and the petitioner “often hung out at the malls” and that the petitioner “often invited my wife and me over to dinner since she loved to cook.” However, as noted by the director, this conflicts with the testimony of the petitioner in her April 11, 2006 affidavit, in which she states that S-V- did not allow her to go out without him. In that affidavit, the petitioner testified to the following:

[S-V-] did not want me to be with other people. He wanted me to come straight home after work. He did not want me to be with my friends. He did not want me to talk to anybody. . . .

He did not let me go out without him. . . .

On appeal, counsel attempts to explain the conflict between the testimony of the petitioner and Mr. [REDACTED] by stating that no such conflict exists, and stating the following: “[t]he petitioner never states that her abusive spouse physically restrained her thereby preventing her from being around other people.” Counsel is correct in noting that the petitioner did not state that she was physically restrained by S-V-. However, she did state that S-V- did not “let” her “go out without him.” If S-V- did not “let” the petitioner go out without him, then it is unclear how she was able to “hang out at the malls” with [REDACTED]. It is unclear to the AAO why the petitioner would state that S-V- did not “let” her go out with him if she did not mean it. Counsel’s attempt at explanation fails. The inconsistency remains. Again, 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, and, doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho* at 591-92.

The AAO acknowledges counsel's statement on appeal that S-V- and the petitioner never obtained insurance policies due to financial inability, that S-V- insisted on separate bank accounts, and that they did not file a joint tax return due to the short length of time during which they resided together. Counsel asserts that "[t]he absence of such items, alone, should not form the basis on which the Service rests its decision." The AAO agrees that the absence of specific items such as insurance policies, bank statements, or joint tax returns is not, in and of itself, a valid basis on which to make a determinate that the petitioner has failed to establish a shared joint residence. The AAO acknowledges that in cases of this type certain types of documentation are not always available. However, the lack of specific documents was not the basis of the director's decision. The fact that the petitioner in this case does not possess joint tax returns or other commonly-submitted items that aid in documenting a shared joint residence does not relieve her from her burden to document such shared joint residence. The documents she has presented, such as affidavits, bank statements, driver's licenses, and voter registration cards, may be sufficient in some cases to meet a petitioner's burden of proof. However, in this case, and as noted by the director's denial of the petition, the evidence that the petitioner has presented to document a joint shared residence is problematic. The affidavits conflict with other, conflict with evidence she presents, and conflicts with the assertions she presented when she filed the Form I-130 in 2001. The evidence she submits also conflicts with the affidavits and with the assertions made by the petitioner when she filed the Form I-130 in 2001.

Counsel has failed to address most of the inconsistencies set forth by the director. With regard to the inconsistencies that counsel did elect to address on appeal, counsel's explanations were unconvincing. Regardless, the inconsistencies remain, and they are too voluminous for the AAO to ignore. A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after USCIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the beneficiary's eligibility is not credible. Accordingly, the petitioner has not established her eligibility for the requested immigrant visa classification. The petitioner has not established by a preponderance of the evidence that she shared a joint residence with S-V-, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

### **Battery and/or Extreme Cruelty**

The AAO agrees with the director's determination that the petitioner failed to establish that S-V- subjected her to battery and/or extreme cruelty. As evidence of battery and/or extreme cruelty, the petitioner submits self-affidavits, affidavits from friends, and a psychological evaluation.

The record contains two affidavits from the petitioner. However, her May 7, 2007 affidavit was focused on establishing the bona fides of her marriage to S-V- and did not address battery and/or extreme cruelty. In her April 11, 2006 affidavit, which was submitted at the time the petition was filed, the petitioner states that she entered the United States on July 4, 2001; that she met S-V- at a friend's party later that month; that they dated for about a month; that S-V- first proposed marriage a month and a half into the relationship; that the petitioner turned down S-V-'s first marriage proposal, as she thought things were moving too fast; that one month after his first marriage proposal, S-V- again proposed marriage; that, although the petitioner still thought things were moving too fast, she accepted the proposal; that she married S-V- on October 16, 2001; that, at the time of the marriage, S-V- was not working, so the couple had little money; that, the petitioner's employer rented his house to the couple; that S-V- was able to find a job around November 2001; that S-V- did not introduce the petitioner to his family; that the petitioner worked during the day, and S-V- worked at night, which created problems, as they did not have much time for one another; that, when the couple did spend time together, S-V- often became angry over the petitioner's lack of proficiency in the English language; that S-V- called the petitioner names; that S-V- did not like the food that the petitioner prepared for him; that on one occasion after becoming angry over the food the petitioner had prepared, the petitioner began crying, which made S-V- angrier, and he threw the food and dishes on to the floor; that, on the occasion that S-V- threw the food and dishes to the floor, the dishes shattered and bits of the glass hit the petitioner, causing her to bleed; that the petitioner did not say a word when the petitioner began bleeding, but simply left the house; that the petitioner went to a friend's house and, when she returned, S-V- became very angry, slapped her in the face, told the petitioner that she could not go anywhere without his permission, grabbed her by the arm, pushed her against the wall, and told the petitioner that she deserved her treatment because she was his slave; that her boss noticed the cuts the next day, but she told her boss not to talk to S-V-, as she did not want any more problems in the marriage; that the petitioner did not speak to S-V- the day after the incident with the broken dishes, which infuriated him, and he told the petitioner that she had no respect for him; that all the money the petitioner made working at a Thai restaurant was used to support the household; that S-V- demanded money constantly; that when the petitioner gave S-V- less money than he requested, he became angry; that on one occasion, S-V- yelled at the petitioner for not giving him enough money, told her that he would "beat her up" if it ever happened again, and threw the money back at her; that, on another occasion, S-V- did not believe the petitioner when she told him that she did not have any money and searched her purse; that, when the petitioner tried to stop S-V- from searching her purse, he punched her arm and pushed her to the ground; that S-V- enjoyed going out with friends; that S-V- never told the petitioner where he was going; that S-V- never allowed the petitioner to accompany him out; that, on one occasion when she

insisted on going out with him, S-V- became agitated and called her names and, when the petitioner tried to stop S-V- from leaving, he slapped her in the face and told her to mind her own business; that her jaw hurt for several days after S-V- slapped her in the face; that S-V- was possessive; that S-V- did not want the petitioner to be around other people; that S-V- wanted the petitioner to come straight home from work; that S-V- did not want the petitioner to be with her friends or talk to anyone; that S-V- would not let the petitioner go out without him; that, after he and the petitioner fought, S-V- would harass the petitioner by calling her cell phone or her place of work; that S-V-'s harassment became so bad that the petitioner's boss had to tell S-V- to stop calling the petitioner at work; that S-V- showed excessive jealousy; that S-V- would check the petitioner's cell phone to see who had called, and to listen to her messages; that, whenever he heard a male voice on the petitioner's voice-mail system, he accused the petitioner of having an affair; and that finally, around the month of February, 2002, S-V- finally moved out of the house.

In his April 17, 2006 affidavit, [REDACTED] stated, with regard to battery and/or extreme cruelty, that the petitioner is an employee at his restaurant; that things went well between the petitioner and S-V- at the beginning of their relationship; that one day he saw the petitioner crying at work; that, when he asked the petitioner whether she was happy being married to S-V- she did not respond; that the petitioner came to work on one occasion with cuts and bruises on her arm; that, when he asked the petitioner about the cuts and bruises she began crying, and told him that S-V- did not like her cooking, had thrown the food and dishes to the ground, and that when the dishes broke she was cut; that the petitioner told him that when S-V- found out she had left the house, he slapped her in the face, grabbed her arm, and pushed her against the wall; that he became angry at S-V- for treating the petitioner in such a manner; that he told the petitioner to call the police, but that she refused to do so; that he felt badly for the petitioner because he felt her to be such a good person; that he always knew whenever S-V- and the petitioner had had a fight, because S-V- would call the restaurant to harass the petitioner; that on one occasion he answered the telephone when S-V- called the restaurant, asked to speak to the petitioner in a very rude tone, and, a few minutes later saw the petitioner holding the phone and crying; that on that occasion he took the phone from the petitioner, heard S-V- yelling and swearing at the petitioner, and told S-V- that if he ever called the restaurant again, he would call the police; that, one day the petitioner did not come to work as scheduled and, fearing for the petitioner's safety, he went to the house he was renting to the couple; that he could hear S-V- screaming at the petitioner; that he opened the door and, without either the petitioner or S-V- noticing, saw S-V- slap the petitioner in the face and push her against a wall; that he shouted at S-V-, pulled him away from the petitioner, and told S-V- that if he did not leave the house immediately, he would call the police; that he and his wife did not allow the petitioner to return to the marital home that night; that he and his wife advised the petitioner to end the marriage; that the petitioner returned to S-V- the next day; that the petitioner told him the following day at work that S-V- had apologized and promised never to hit her again; that he advised the petitioner that once a man like S-V- started hitting her, he would never stop; and that S-V- left the petitioner shortly thereafter.

In his April 7, 2007 affidavit, [REDACTED] stated that he found out that S-V- was abusing the petitioner; harassing the petitioner at her place of employment; and that his wife advised the petitioner to leave S-V- once they found out that S-V- was physically abusive.

The petitioner also submits a December 9, 2005 psychological evaluation from [REDACTED], a clinical psychologist. In her evaluation, which was based upon a single interview with the petitioner that occurred on December 2, 2005, [REDACTED] relays information provided by the petitioner during that interview. [REDACTED] states that the petitioner told her that the first two months of the marriage were happy ones; that S-V- began leaving the marital residence without telling the petitioner where he was going; that S-V-'s absences from the home became longer and longer; that S-V- asked the petitioner for money repeatedly; that S-V- would aggressively ask for hundreds of dollars at a time and, if the petitioner refused to give it to him, he became irate and physically violent; that S-V-'s most common response was to yell at the petitioner in a threatening way and throw whatever money she had offered him back at her; that S-V- pushed her for the first time three to four months after they were married; that, in early 2002, on one occasion S-V- complained about the petitioner's cooking, threw the food and dishes on the floor and at the petitioner, and that the broken dishes cut her severely enough that she bled; that after the petitioner went to a friend's house for support, S-V- grabbed the petitioner and pushed her against a wall in a fit of rage; that S-V- routinely yelled demeaning comments and called her names; that the petitioner worried about her physical safety if she were to speak with anyone about what was happening; that the petitioner feared for her life; that S-V- controlled the petitioner through coercive threats, demeaning language, and abusive behavior; and that after fights, arguments, or episodes of demeaning language, S-V- acted as though nothing had happened and assumed the role of a loving and caring husband. [REDACTED] diagnosed the petitioner with post-traumatic stress disorder (PTSD) and stated that she discussed treatment options with the petitioner, and referred her to a reduced-fee clinic for treatment.

On appeal, counsel reiterates the contents of the affidavits of record, contending that the petitioner was subjected to physical abuse by S-V-; that the petitioner suffered psychological abuse by S-V-; that S-V- attempted to isolate the petitioner from others; and that [REDACTED], the petitioner's employer and the couple's landlord, witnessed physical abuse. Counsel also contends that Dr. [REDACTED] evaluation should be accorded "considerable evidentiary weight regarding abuse."

Upon review, the AAO agrees with the director's determination that the petitioner has failed to establish that she was the victim of battery and/or extreme cruelty. With regard to the testimony of the petitioner and [REDACTED] the AAO incorporates here its previous discussion with regard to the inconsistencies contained in their affidavits with regard to the purported joint residence of S-V- and the petitioner. With regard to battery and/or extreme cruelty, [REDACTED] discusses a situation in which he personally interrupted a physical altercation between S-V- and the petitioner, in which he physically pulled S-V- away from the petitioner. The petitioner, however, makes no mention of this in either of her affidavits, which creates an inconsistency that detracts further from the probative value of [REDACTED] testimony. The AAO has already diminished the evidentiary weight it will accord to the testimony of the petitioner and [REDACTED] based upon the inconsistencies discussed

earlier in this decision; this added discrepancy leads the AAO to attach even less weight to the testimony of either.

Nor does [redacted] affidavit establish battery and/or extreme cruelty, as he does not indicate that he personally witnessed any physical abuse or extreme cruelty. Further, the AAO notes again the previously-identified inconsistencies with regard to joint residence existent between the testimony of [redacted] and the petitioner.

Finally, the AAO turns to [redacted] evaluation. The AAO agrees with the director's determination that [redacted] evaluation does not establish battery and/or extreme cruelty. First, the AAO notes that [redacted] testimony is based solely on the petitioner's own testimony which, as discussed previously, is of questionable evidentiary value due to the multiple inconsistencies of record. That her testimony was provided to [redacted] does make such testimony any more reliable than the testimony she provides to USCIS directly. Further, the AAO notes that [redacted] testimony is based upon one interview of unspecified length, and her evaluation appears to have been procured by the petitioner for the sole purpose of bolstering the instant immigrant petition. Although the AAO does not question the qualifications of [redacted] and while the input of any mental health professional is respected and valuable, the record fails to reflect an ongoing relationship between the petitioner and [redacted] Dr. [redacted] conclusions reached in the submitted evaluation, being based upon a single interview, do not reflect the insight and elaboration commensurate with an established relationship with a psychologist, thereby rendering her findings speculative and diminishing the evaluation's value. Moreover, the AAO notes that the record fails to reflect any history of treatment for the PTSD that [redacted] diagnosed in her single interview with the petitioner. Finally, the AAO notes that, according to Dr. [redacted], "[a]fter fights, arguments, or episodes of demeaning behavior," S-V- "seemed prepared to assume the role of a loving and caring husband." The petitioner, however, made no such assertion. Although [redacted] stated that S-V- apologized to the petitioner on one occasion, the petitioner's testimony indicated the opposite: she stated that, after fights, S-V- "would always leave me in the house by myself." She also described an incident in which she did not speak to S-V- after an argument, which "made him furious." This assertion by [redacted], therefore, introduces yet another inconsistency into the evidence of record. For all of these reasons, the AAO will accord little weight to [redacted] evaluation.

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 credible relevant 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 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.

In a case such as this, where there is little or no physical evidence of battery and/or extreme cruelty, the petitioner's testimony is crucial. As has now been noted several times, the evidence submitted by the petitioner contains multiple unresolved inconsistencies and discrepancies which detract from the credibility of her claim. Again, a few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir. 2003). However, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after USCIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1983). The petitioner has failed to establish that S-V- 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 director also found that the petitioner had failed to establish that she married S-V- in good faith. The AAO agrees. As a preliminary matter, the AAO again incorporates into this portion of its decision its previous discussion regarding the inconsistencies and discrepancies contained in the petitioner's testimony and in her evidence. Again, the unresolved inconsistencies and discrepancies of record undermine the credibility of the petitioner's assertions.

However, even if the AAO were to grant full weight to the petitioner's assertions, the record would still be insufficient to establish that she married S-V- in good faith. As noted previously, the petitioner entered the United States on July 4, 2001, met S-V- later that month, and married him on October 16, 2001. On their Forms I-130, she and S-V- indicated that they began living together in July 2001.

With regard to the couple's courtship, the petitioner stated in her April 11, 2006 affidavit that she met S-V- at a friend's party; that she noticed S-V- immediately, because he was the only non-Asian person at the party; that she was attracted to S-V- immediately because of his smile; that they exchanged phone numbers that night; that the couple went to a Chinese restaurant on their first date, and then saw a movie; that she liked S-V- because he was very sweet and nice, and always praised her looks; and that S-V- treated her like a princess. In his April 17, 2006 affidavit, [REDACTED] stated that while the petitioner and S-V- were dating, the petitioner arrived to work smiling and

happy; and that the petitioner told him she was in love with S-V-, and that she thought she had found the man she would spend the rest of her life with.

The petitioner also submitted two pictures of the couple's wedding, and four pictures, which appear to have all been taken on the same day, of the petitioner and S-V-.

The information of record regarding the petitioner's good faith entry into the marriage is very general in nature. Although the petitioner states that they went to a Chinese restaurant and saw a movie together on one occasion, she offers few other details, other than generalized statements like "he was very sweet and nice" and that S-V- "treated me like a princess." The record contains insufficient information regarding the types of activities the couple enjoyed together during their courtship for the AAO to make a determination that the petitioner married S-V- in good faith. Nor does the petitioner provide details on issues such as how she and S-V- bridged the gap in communications that existed between the two of them during the courtship (for example, the AAO notes that the petitioner required assistance in communicating with [REDACTED] at their December 2005 interview). Although the photographs submitted by the petitioner have been evaluated by the AAO, such photographs are, without additional supporting evidence, of little probative value. The record as it currently stands lacks sufficient documentation to establish that the petitioner entered into marriage with S-V- in good faith, as required by section 204(a)(1)(A)(iii)(I)(a2) of the Act.

### **Conclusion**

The AAO agrees with the director's determination that the petitioner has failed to establish that she and her husband shared a joint residence; that her husband subjected her to battery or extreme cruelty; and that she entered into marriage with her husband 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), and the petition must be denied.

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.