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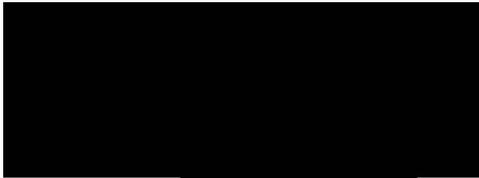
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



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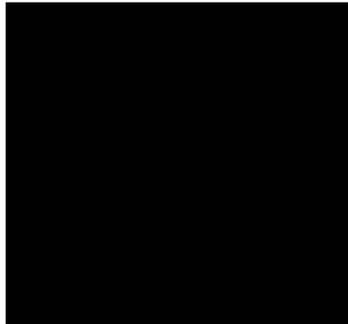
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EAC 08 050 50144

Office: VERMONT SERVICE CENTER

Date: **JAN 08 2010**

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).

  
Perry Rhew  
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 her husband subjected her to battery or extreme cruelty; and (2) that she entered into marriage with her husband in good faith.<sup>1</sup>

Counsel submitted a timely appeal on June 8, 2009.

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:

- (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,

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<sup>1</sup> In his June 2, 2009 appellate brief counsel asserts, incorrectly, that the director also denied the petition on the basis of his determination that the petitioner failed to establish: (1) that she had shared a joint residence with her husband; and (2) that she is a person of good moral character. However, the AAO notes that the director specifically stated in his May 13, 2009 decision that the evidence submitted by the petitioner was sufficient to satisfy those two issues.

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.

\* \* \*

- (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 the People's Republic of China who entered the United States on February 15, 2000, in nonimmigrant visitor status, with authorization to remain in the United States through March 16, 2000. The petitioner married B-G-<sup>2</sup> a United States citizen, on August 8, 2003. B-G- filed Form I-130, Petition for Alien Relative, on behalf of the petitioner on November 6, 2003. The petitioner filed Form I-485, Application to Register Permanent Residence or Adjust Status, on that same date. Although the Form I-130 was approved on February 7, 2006, the Form I-485 was denied on June 12, 2006. Previous counsel filed a motion to reconsider the denial of the Form I-485 on July 12, 2006, and the motion was granted and an interview scheduled.

On March 1, 2007, U.S. Citizenship and Immigration Services (USCIS) issued a notice of intent to revoke the approval of the Form I-130. According to the March 1, 2007 notice, the petitioner and G-B- provided inconsistent testimony regarding their relationship at a February 6, 2007 immigration interview. USCIS found the petitioner's response to the notice insufficient, and revoked approval of the Form I-130 on April 20, 2007. The Form I-485 was denied on April 20, 2007 as well.

Removal proceedings against the petitioner were initiated, and a notice to appear (NTA) was issued on August 12, 2007. The NTA notified the petitioner that she was to appear for a hearing in New York on December 4, 2007.

The petitioner submitted the instant Form I-360 on December 4, 2007. The director issued a notice of intent to deny (NOID) the petition on January 21, 2009, which notified the petitioner of deficiencies in the record and afforded her the opportunity to submit further evidence to establish that she had a qualifying relationship with B-G- and is eligible for immigrant classification as an immediate relative on the basis of such a relationship; that she was subjected to battery and/or extreme cruelty by B-G-; that she is a person of good moral character; and that she entered into marriage with B-G- in good faith. The petitioner responded to the director's NOID on February 20, 2009, and submitted additional evidence. After considering the evidence of record, the director denied the petition on May 13, 2009.

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<sup>2</sup> Name withheld to protect individual's identity.

### **Battery or Extreme Cruelty**

The first issue on appeal is whether the petitioner has established that she was subjected to battery and/or extreme cruelty by B-G-. Upon review of the record, 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.

In his June 30, 2002 psychological evaluation, which the AAO notes was written more than one year prior to the petitioner's marriage to B-G-, ██████████ stated that the petitioner had been under his care since September 2001. He stated that when he first began seeing her, the petitioner presented with severe depressive symptoms. ██████████ explained that the petitioner received both medication and psychotherapy to treat her depression, and that she had made moderate improvements. ██████████ stated that, in his professional opinion, the petitioner had actually suffered from two episodes of depression: the first episode was caused by a forced abortion in China after becoming pregnant in violation of that country's one-child policy (she already had a son from a previous marriage) and subsequent installation of an intra-uterine device, and the second episode was caused by the cultural shock, difficulty in learning English, and lack of family support she encountered upon her arrival in the United States.

In his March 14, 2007 psychological evaluation, ██████████ explained again that the petitioner had been under his care for depression and emotional trauma stemming from the forced abortion in China and subsequent installation of an intra-uterine device. ██████████ explained that he first saw the petitioner on September 1, 2001 (more than two years before the petitioner and B-G- married), and that she took medication and received counseling for depression from September 2001 until January 2003. However, she was depressed and anxious throughout this period, and did not fully respond to treatment. Her last visit with ██████████ during this time occurred on January 11, 2003. ██████████ reported that the petitioner appeared for a follow-up evaluation on March 13, 2007, more than four years after her previous appointment. According to ██████████, the petitioner told him that she was happy with her marital life. ██████████ also reported that the petitioner appeared hopeful and relaxed about her marriage to B-G-, and he described the marriage as "stable."

In her July 10, 2006 self-affidavit, the petitioner stated that B-G- had been "extremely good" to her, and that he had provided her "a safe and secure environment in which to live." She also described B-G- as a "faithful and kind husband."

In her October 24, 2007 self-affidavit, the petitioner stated that the couple began arguing shortly after the marriage. In December 2003, B-G- pressured the petitioner to find employment and, after she obtained a job in a beauty salon, told her to give her money to him. She worked in the beauty salon every day of the week and, upon returning home from work, she performed the housework. When she was able to secure several vacation days, G-B- became angry. The petitioner stated that when she told G-B- that he could not force her to work so hard to support the two of them, he yelled at her and threatened her immigration status. The petitioner stated that G-B- told her that she was

his personal property and that he was the man of the house and the master of his wife. On one occasion, after becoming angry because he did not like the Chinese food she cooked, G-B- threw a bowl of hot food at the petitioner and burned her legs and knees. In addition to describing G-B-'s infidelity, the petitioner stated that when she questioned him about such infidelity, G-B-kicked her out of bed, beat her with his fists, slapped her, kicked her, and threatened to kill her. He also warned her that if she did not stay away from her friends, he would teach her a lesson. The petitioner stated that G-B- called her names; purposely answered questions incorrectly at immigration interviews; and threw things at her.

The petitioner also submitted affidavits from friends regarding the alleged abuse when she filed the petition. In his October 27, 2007 affidavit, [REDACTED] stated that after only a few weeks of marriage, the petitioner told him and his wife that G-B- was sexually abusive. [REDACTED] also stated that the petitioner told him that G-B- did not support the family financially; that he had forced her to accept a job she did not like; that he treated her as a "working machine"; that he was possessive; that he yelled at her; that he cursed at her; that he hit her; that he burned her with hot food; that he cheated on her; and that he threatened her immigration status. According to [REDACTED], before her marriage to G-B- the petitioner was confident and always happy, but due to the abuse had become quiet and depressed.

In his October 27, 2007 affidavit, [REDACTED] stated that the petitioner had told him that G-B- abused her sexually, mentally, and physically, and that he was very possessive and controlling. According to [REDACTED] as a result of G-B-'s abuse the petitioner transformed from a positive and happy person into a lonely, depressed, and unhappy person.

In her October 27, 2007 affidavit, [REDACTED] stated that the petitioner told her that G-B- was abusive and controlling toward the petitioner, took her money, yelled at her, and cheated on her. [REDACTED] also described a February 2005 incident during which she saw G-B- with another woman on the street. She stated that before she was married to G-B-, the petitioner had many friends, and was always happy. However, as a result of the abuse, she had become quiet and depressed and cried every time she talked about her marriage.

In his January 21, 2009 NOID, the director noted several inconsistencies in the testimony of record regarding the alleged abuse. For example, the director noted that although the petitioner claimed that G-B- controlled the couple's finances, the petitioner had submitted evidence of a joint bank account which, by its very nature, implied that both parties had access to the money contained therein. The director noted further that although the petitioner claimed that G-B- forced her to work and took all of her money, the couple's 2004 joint tax return reported income from G-B- only.

The director also noted that although two of the petitioner's affiants claimed that G-B- sexually abused the petitioner, the petitioner made no such claim.

The director also noted that although the petitioner claimed that G-B- refused to give her money, would not let her take time from work, and tried to keep her from her friends, at a February 2007

immigration interview she stated that she had spent Christmas in Arizona with a friend. The director also noted that, according to [REDACTED] psychiatric evaluation, the petitioner possesses a massage license from the State of Arizona, and that she had been “back and forth” between her job in Arizona and her home in New York.

The director also noted that in his 2007 evaluation, [REDACTED] reported that the petitioner had appeared hopeful and relaxed about her marriage, and that she was more emotionally stable as a result of being in a stable marriage. The director also noted the petitioner’s July 10, 2006 testimony that G-B- had been “extremely good” to her, and that he had provided her a “safe and secure environment in which to live.”

The director also noted that other than the February 2005 incident during which [REDACTED] personally witnessed G-B- with another woman, the testimony of [REDACTED], and [REDACTED] appeared to have been based upon the petitioner’s rendition of events rather than from personal knowledge of any events they personally witnessed.

Finally, the director notified the petitioner that marital infidelity constitutes neither battery nor extreme cruelty, nor do marital tensions and incompatibilities which place strains on a marriage, and may even result in the disintegration of the marriage.

Counsel responded to the director’s NOID on February 20, 2009. In his February 19, 2009 letter, counsel stated that it was unfair to discount the testimony of [REDACTED], and [REDACTED] regarding the alleged abuse because they did not personally witness any instances of abuse. With regard to the inconsistencies between the testimony of the petitioner and her affiants in discussing the alleged sexual abuse, counsel stated that the petitioner did not discuss the sexual abuse in her self-affidavits because she “was too shy to illustrate her husband’s sexual abuse.” With regard to the existence of the joint bank account in relation to the claims of financial control, counsel stated that the petitioner did not have actual control over the account, because if she attempted to withdraw any money without her husband’s consent, he would have yelled at her and attacked her physically. With regard to the petitioner’s July 10, 2006 testimony that B-G- had been “extremely good” to her, that he had provided her “a safe and secure environment in which to live,” and that he was a “faithful and kind husband,” as well as [REDACTED]’s statement that when he saw her on March 13, 2007, the petitioner told him that she was happy with her marital life and that she appeared hopeful and relaxed about her marriage to B-G-, counsel stated that such testimony was true at the time it was made, and that there was no way at the time such testimony was made that the petitioner could have foreseen B-G-’s later abuse.

Counsel’s explanations are insufficient. First, the AAO disagrees with counsel’s assertion that it is unfair to discount the testimony of [REDACTED], and [REDACTED] regarding alleged abuse that they did not witness. If they did not personally witness such abuse, and their testimony is based solely on the petitioner’s rendition of events, then their testimony regarding those events does not serve to bolster the testimony of the petitioner. Nor is the AAO persuaded by counsel’s explanation of the inconsistency between the testimony of the petitioner and her affiants regarding the alleged

sexual abuse: if the petitioner was able to discuss the alleged sexual abuse with friends and family, it is unclear why she was unable to discuss it in a battered spouse petition.

Moreover, the AAO does not find convincing counsel's statements regarding the petitioner's July 10, 2006 testimony that B-G- had been "extremely good" to her, that he had provided her "a safe and secure environment in which to live," and that he was a "faithful and kind husband," as well as [REDACTED] statement that when he saw her on March 13, 2007, the petitioner told him that she was happy with her marital life and that she appeared hopeful and relaxed about her marriage to B-G-. Again, counsel stated that such testimony was true at the time it was made, and that the petitioner could not have foreseen the later abuse. However, rather than explaining the inconsistencies created by the testimony of the petitioner and [REDACTED], counsel's explanation introduces further inconsistencies into the record. As set forth previously, the affidavits of the petitioner and her affiants indicate that marital discord began shortly after the marriage in August 2003, and the petitioner stated on the Form I-360 that the couple ceased living together in October 2007. Moreover, counsel stated earlier in his February 19, 2009 letter that the abuse was "beyond her endurance" by 2005. If the petitioner's testimony that B-G- had been "extremely good" to her, that he had provided her "a safe and secure environment in which to live," and that he was a "faithful and kind husband," was true as of July 10, 2006, her declaration to [REDACTED] that she was happy with her marital life was true as of March 13, 2007, and [REDACTED] observation that the petitioner also appeared hopeful and relaxed about her marriage was also true as of March 13, 2007, then the timelines provided by the petitioner and her affiants, as well as that provided by counsel earlier in his letter, were incorrect.

Finally, the AAO notes that counsel did not explain how the petitioner was able to travel to, vacation with friends in, and hold employment in Arizona if G-B- controlled her and did not allow her to see her friends.

For all of these reasons, the AAO finds that counsel's February 19, 2009 NOID response not only failed to resolve several inconsistencies highlighted by the director regarding the alleged abuse but also introduced further inconsistencies.

The petitioner also submitted another self-affidavit in response to the director's NOID. In that February 12, 2009 affidavit, the petitioner acknowledged that she did not address the alleged sexual abuse in her earlier testimony. Although the petitioner stated that the testimony of her affiants was correct, she did not discuss the alleged sexual abuse in any detail. She also reiterated counsel's statement that although she and B-G- had a joint bank account, she was not permitted to make withdrawals from that account. With regard to her statements to [REDACTED], she reiterated that her July 10, 2006 and March 13, 2007 statements were true at the time they were made, and that there was no way at the time such testimony was made that she could have foreseen the later abuse. As was the case with counsel's letter, the petitioner's February 12, 2009 testimony introduced further inconsistencies into the record. Again, if the petitioner's testimony that B-G- had been "extremely good" to her, that he had provided her "a safe and secure environment in which to live," and that he was a "faithful and kind husband," was true as of July 10, 2006, her declaration to [REDACTED] that she

was happy with her marital life was true as of March 13, 2007, and [REDACTED] observation that the petitioner also appeared hopeful and relaxed about her marriage was also true as of March 13, 2007, then the previous timelines provided by the petitioner and her affiants were inaccurate. As set forth previously, the earlier affidavits of the petitioner and her affiants had indicated that marital discord began shortly after the marriage in August 2003, and the petitioner stated on the Form I-360 that the couple ceased living together in October 2007. The petitioner's February 12, 2009 testimony indicates that as of March 2007, she was happy with her marital life and could not have anticipated future abuse.

The petitioner also stated in her February 12, 2009 self-affidavit that she had "received continuous psychiatric treatments from [REDACTED] throughout our marriage for a long period of time." This statement, however, is not supported by the record. The record indicates that the petitioner made four visits to [REDACTED] while married to B-G-: (1) March 13, 2007; (2) January 14, 2009; (3) February 10, 2009; and (4) February 17, 2009. On March 13, 2007, the petitioner told [REDACTED] that she was happy with her marital life, and [REDACTED] observed that the petitioner appeared hopeful and relaxed about her marriage. In her February 12, 2009 self-affidavit the petitioner testified to the veracity of such statements. As for the latter three visits, the AAO notes that they were not made until over one year after the Form I-360 was filed, which diminishes their evidentiary weight. [REDACTED] typed letters were prepared in 2002 and 2007, well before the 2009 visits took place, and his handwritten notes regarding the three 2009 visits are not legible. Furthermore, although [REDACTED] 2002 and 2007 letters do indicate that the petitioner has suffered from depression, neither letter links her depression to any type of maltreatment by G-B-. The June 30, 2002 letter was prepared before the marriage took place, and the March 14, 2007 letter indicated that the petitioner was, at that point, happy in her marriage. Rather, [REDACTED] letters pointed to the petitioner's endurance of a forced abortion in China and issues surrounding her adjustment to life in the United States as the roots of her depression. The materials from [REDACTED], therefore, do not support the petitioner's claim to abuse. Nor do they resolve any of the inconsistencies outlined above.

Finally, the AAO notes that the petitioner submitted two additional affidavits in response to the NOID: (1) an additional affidavit from [REDACTED] and (2) an affidavit from [REDACTED]. In her February 13, 2009 affidavit, [REDACTED] stated that she was not present during most of the instances of abuse, but that she was aware of the abuse because she and the petitioner are close friends. However, the AAO notes again that because it does not appear as though [REDACTED] personally witnessed any specific instances of abuse (and, in any event, did not describe any specific instances of abuse), and her testimony is based solely upon the petitioner's rendition of events, her testimony does not bolster the petitioner's case. With regard to instances of abuse that she witnessed personally, [REDACTED] stated in her February 13, 2009 affidavit that B-G- yelled at the petitioner constantly, both in public and in private, and that she witnessed such yelling "many times." However, she does not describe any specific instances, and her generalized statement that she witnessed such yelling "many times" is insufficiently broad and lacking in detail to be of probative value.

Counsel's appeal consists of a brief and another self-affidavit from the petitioner. As a preliminary matter, the AAO notes that the text of the brief and the affidavit is nearly identical, which raises questions as to who actually wrote the petitioner's self-affidavit.

In her May 29, 2009 self-affidavit, the petitioner stated that she was verbally, physically, and sexually abused, and that B-G- yelled at her, cursed at her, beat her, and controlled her, and counsel repeated such assertions in his June 2, 2009 brief.

The AAO finds that the director correctly denied the petition on this ground, as the evidence of record does not demonstrate that the petitioner was subjected to battery and/or extreme cruelty. First, the timelines provided by the petitioner and her affiants, as well as those of counsel, are inconsistent. According to the Form I-360, B-G- and the petitioner shared a joint residence from January 2003 until October 2007. Although some testimony of record indicates that marital discord began as early as December 2003, the petitioner has testified that as late as March 2007, she was happy in the marriage, and that the abuse had not yet begun by that point. Such inconsistencies undermine the probative value of the testimony of record.

Nor does the information from [REDACTED] support the petitioner's claim to have been abused. Again, although [REDACTED] indicates that the petitioner has suffered from depression, he does not link that depression to any maltreatment by B-G-. Rather, he linked her depression to a forced abortion in China in 1997 and difficulty in transitioning to life in the United States.

Nor does the testimony of the petitioner's affiants establish the petitioner's claim to abuse, as it does not appear as though any of the affiants, except for [REDACTED] personally witnessed any incidents of abuse. Although [REDACTED] did indicate that she saw B-G- yelling at the petitioner, her failure to describe any particular incident in any detail prevents the AAO from making a determination as to whether such behavior on the part of B-G- constituted abuse. Moreover, the AAO notes that although [REDACTED] stated that the petitioner was confident and happy before her marriage to B-G- but became depressed afterward, and [REDACTED] stated that she was positive and happy before the marriage but became depressed afterward, [REDACTED] evaluations state that she was suffering from a major depressive disorder before the marriage occurred.

Nor does the record establish that B-G- controlled the petitioner or kept her from seeing her friend. Despite being afforded the opportunity to do so by the director, the petitioner has failed to explain how she was able to vacation in Arizona with a friend.

The petitioner has failed to establish that B-G- subjected her to battery or extreme cruelty. Although B-G-'s non-physical behavior as described by the petitioner may have been unkind and inconsiderate, the petitioner has failed to establish that his actions rose 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. Nor has the petitioner established that B-G-'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. As noted by the court in *Hernandez v. Ashcroft*, 345 F.3d 824 (9<sup>th</sup> Cir. 2004), because Congress “required a showing of extreme cruelty in order to ensure that [a petitioner is] protected against the extreme concept of domestic violence, rather than mere unkindness,” not “every insult or unhealthy interaction in a relationship rises to the level of domestic violence. . . .” The petitioner has failed to overcome the director’s concerns regarding the issue of battery and/or extreme cruelty. The petitioner has failed to establish that B-G- 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 second issue on appeal is whether the petitioner has established that she married B-G- in good faith. The AAO agrees with the director’s determination that the petitioner has failed to make such a demonstration. First, the petitioner’s testimony regarding the circumstances surrounding their courtship is inconsistent. In her July 10, 2006 self-affidavit, the petitioner stated that she met B-G- at the Lincoln Center in New York during a performance, and that they fell in love immediately. However, by the time she executed her October 24, 2007 self-affidavit, the petitioner’s description of those circumstances had evolved. By that time, although she still maintained that they first met at the Lincoln Center, she did not want to give B-G- her telephone number, and that her friend gave B-G- her number instead. The petitioner stated that she did not pay much attention to the matter, as she considered it “a joke,” and, when B-G- called her a few weeks later, she was very surprised.

The record contains other inconsistencies regarding the couple’s courtship. As noted by the director in his NOID, although the petitioner claims to have met B-G- in September 2002, [REDACTED], and [REDACTED] all stated in their affidavits that the petitioner met B-G- in 2000. In response to the director’s highlight of this inconsistency in the NOID, the petitioner stated in her February 12, 2009 self-affidavit that they “may have mistakenly confused my husband with another man that I previously dated, whom I met at around [sic] the end of 2000.” The AAO finds this explanation deficient. First, the petitioner offers no additional testimony from these affiants to substantiate her speculation that all of three of them “may” have confused her husband with another man. Further, the AAO questions why, if [REDACTED] is as close to the petitioner as she claims to be, she confused the petitioner’s husband with a previous man she had dated.

All of these inconsistencies undermine the petitioner’s claim of a good faith marriage.

Although the petitioner submits pictures of the couple together, the AAO notes that only one of them is dated, and none of them are described. While these pictures indicate that the petitioner and B-G- were in the same place at the same time, they are not, in and of themselves, evidence of a good faith entry into marriage.

Furthermore, the testimony of record in this case contains insufficient information regarding the couple’s relationship. While the AAO acknowledges the utility bills and bank statements, these items do not speak to the petitioner’s intentions upon entering into the marriage. For example, while the petitioner describes the couple’s introduction and first date, as well as their trip to Times

Square in New York on December 31, 2002, there is very little additional information regarding the rest of their courtship, which began in either 2000 or 2002, depending upon whose affidavit is being read, and lasted until the couple's marriage in August 2003. There is very little information regarding the couple's courtship, such as the types of activities they enjoyed together and how cultural differences were bridged; their decision to marry; and their wedding. Such information, in the absence of documentary evidence, would have allowed the AAO to make a determination on the petitioner's intentions upon entering into the marriage. The record does not contain adequate testimony regarding the petitioner's intentions upon entering into the marriage.

Furthermore, as noted by the director, during the couple's immigration interview the petitioner gave testimony regarding the relationship that conflicted with that of G-B-.

In the absence of both documentary evidence and detailed, reliable testimony, the petitioner fails to establish her claim. The petitioner has failed to overcome the director's concerns with regard to the petitioner's intentions upon entering into marriage with G-B-. The petitioner has failed to establish that she entered into marriage with G-B- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Accordingly, the AAO agrees with the director's decision to deny this petition.

### **Conclusion**

The AAO agrees with the director's determination that the petitioner has failed to establish that her husband subjected her to battery or extreme cruelty or that she married 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 this 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.