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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

Bq

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date:

FEB 11 2011

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. 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 U.S. citizen spouse and that his spouse subjected him to battery or extreme cruelty during their marriage.

On appeal, the petitioner submits a statement, and asserts, in part, that he married his spouse in good faith and that he was mistreated and humiliated by her. The petitioner also asserts that the evidence related to joint residence is “public record that can be proved.” In support of his assertions, the petitioner submits only the referenced brief and documentation already in the record.

As set out below, the AAO concurs with the director’s determination that the petitioner has not established that he resided with his U.S. citizen spouse and that he was subjected to battery or extreme cruelty during their marriage.

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.

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.

The record in this case provides the following pertinent facts and procedural history. The petitioner is a national and citizen of Venezuela, who entered the United States as a B-2 nonimmigrant visitor on

January 2, 2002. On July 28, 2003, the petitioner married L-P-¹, a U.S. citizen. On November 25, 2003, L-P- filed a Form I-130, Petition for Alien Relative, on behalf of the petitioner, and the petitioner concurrently filed a Form I-485, Application to Register Permanent Residence or Adjust Status. On October 20, 2004, the District Director approved the I-130 petition and the I-485 application. On July 18, 2006, the petitioner filed a Form I-751, Petition to Remove Conditions on Residence, which he and L-P- signed on July 28, 2006. On February 28, 2007, L-P- withdrew the Form I-751, and the Form I-751 was denied on the same date, based on the withdrawal from L-P-.

The petitioner filed the instant Form I-360 on February 4, 2008. The petitioner and L-P- were divorced on June 30, 2008.² On July 15, 2009, the director issued a Request for Evidence (RFE) of, *inter alia*, the requisite joint residence, battery or extreme cruelty, good moral character, and good faith entry into the marriage. The director also asked the petitioner whether he had ever been under immigration proceedings. The petitioner responded with additional evidence, and indicated that he had never been under immigration proceedings. On January 21, 2010, the director denied the instant I-360 petition because the petitioner did not establish that he had resided with his spouse and that his spouse subjected him to battery or extreme cruelty during their marriage. The petitioner timely appealed the denial of the instant I-360 petition.

Joint Residence

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

- The petitioner's notarized statement dated January 24, 2008, submitted at the time of filing;
- A sworn statement signed by the petitioner on February 28, 2007, taken by a USCIS officer in connection with the petitioner's I-751 application, in which the petitioner states that in November 2006, he and his spouse moved to [REDACTED], in [REDACTED] and that he and L-P- had never lived at different addresses from each other since their marriage;
- Public court records showing eviction proceedings filed on February 14, 2007, in the Third District Court, West Jordan, Salt Lake County, Utah, against the L-P- and another man, [REDACTED];
- A Request for Protective Order signed by the petitioner on December 20, 2007, in which the petitioner reports that he and L-P- have been separated for ten (10) months;
- A notarized statement from [REDACTED], dated January 16, 2008;
- Two psychological evaluations dated May 8, 2008 and July 27, 2009, respectively, from [REDACTED];
- Copies of power bills and past due notices dated March, April, June, August, November,

¹ Name withheld to protect individual's identity.

² Third Judicial District Court of Salt Lake County, Utah, Civil No [REDACTED]

and December 2004, addressed to the petitioner and L-P- at [REDACTED]

- Copies of power bills addressed to the petitioner and L-P- at [REDACTED] for the service period from January – December 2007;
- Credit offers addressed to the petitioner and L-P- at [REDACTED] dated February – December 2007;
- Copies of gas bills addressed to the petitioner and L-P at the [REDACTED] for the for the service period from January – December 2007;
- Copies of cable bills addressed to the petitioner and L-P- at the [REDACTED] address, for the service period from February – November 2007;
- Copies of voided checks listing the petitioner and L-P- [REDACTED]
- A lease agreement for the period from February 3, 2004 and ending on January 28, 2005, signed by the petitioner and L-P- on February 2, 2004, for the premises located at [REDACTED] and a related “Application to Rent”;
- A Detail History Ledger computer printout dated October 1, 2004 – December 31, 2004 from the [REDACTED] Apartments listing the names of the petitioner and L-P-;
- Three computer invoice printouts dated December 22, 2004, April 20, 2004, and August 17, 2004, from the [REDACTED] listing the names of the petitioner and L-P-;
- A residential rental agreement for the period from October 1 – October 30, 2006, listing the petitioner as the only party and signed by the petitioner on September 29, 2006, for the premises located at [REDACTED]
- Bank statements for the periods from April 27 – June 25, 2004 and from August 26 – November 26, 2004, addressed to the petitioner and L-P- at [REDACTED]
- Bank statements for the period from May 25 – September 27, 2006, addressed to the petitioner and L-P- at [REDACTED]
- A partial phone bill dated August 1, 2004, containing no address and listing the petitioner and L-P-;
- A corrected car title issued on May 23, 2006, listing the petitioner and L-P- at [REDACTED]
- Tax returns for the petitioner and L-P- for 2003 – 2006, and tax refunds, listing [REDACTED]
- A tax return for the petitioner and L-P- for 2007, listing the [REDACTED] address;
- Form 1099-G information statement for 2006, from the Utah State Tax Commission listing the petitioner and L-P- as the recipient and addressed to [REDACTED]; and
- The petitioner’s Form G-325A, Biographic Information, on which the petitioner stated that he lived at [REDACTED] from May 2003 until he signed the form on November 22, 2003.

The AAO affirms the director's determination that the petitioner did not establish that he resided with L-P-.

On the Form I-360, the petitioner stated that he lived with L-P- from the date of their marriage in July 2003 until October 2007. For the "last address at which you lived together . . ." and "the last date you lived together with that person at that address," the petitioner stated: [REDACTED]

In his January 24, 2008 statement, submitted at the time of filing, the petitioner states, in part, that L-P- moved out of their apartment in October 2007.

In the Request for Protective Order signed by the petitioner on December 20, 2007, the petitioner stated that he and L-P- had been separated for ten (10) months, which indicates that the petitioner and L-P- separated in February 2007.

In his January 16, 2008 statement, [REDACTED] states, in part, that he began living with the petitioner and L-P- in December 2006.

In his psychological evaluations dated May 8, 2008 and July 27, 2009, respectively, [REDACTED] states, in part, that the petitioner and L-P- separated in or about October 2007.

In this case, we do not find the relevant evidence sufficient to meet the petitioner's burden of proof. The AAO acknowledges the petitioner's assertions on appeal that the evidence related to joint residence is "public record that can be proved." As stated by the director in his decision, however, the record contains inconsistencies and on appeal, the petitioner does not address those inconsistencies. For example, the petitioner states on the petition, in his January 24, 2008 statement, and to [REDACTED] that he and L-P- separated in October 2007, which conflicts with the information that he provided for the December 20, 2007 Request for Protective Order, in which he indicated that he and L-P- had been separated for ten months, which indicates that he and L-P- separated in February 2007. In addition, the petitioner states in a sworn statement dated February 28, 2007, before a USCIS officer in connection with his I-751 application, that in November 2006, he and his spouse moved to [REDACTED] and that they had never lived at different addresses from each other since their marriage, which conflicts with public court records that show eviction proceedings filed on February 14, 2007, in the Third District Court, West Jordan, Salt Lake County, Utah, against L-P- and another man, [REDACTED]. In addition, although [REDACTED] states in his January 16, 2008 statement that he began living with the petitioner and L-P- in December 2006, the petitioner does not mention this in his January 24, 2008 statement; rather, he states that [REDACTED] was his roommate in December 2007, which was after L-P- allegedly had moved out. The petitioner also does not mention [REDACTED] and/or having a roommate in either of his subsequent statements. Nor does [REDACTED] indicate in either of his evaluations that the petitioner reported to him that he and L-P- had [REDACTED] for a roommate. Again, the petitioner does not address these observations of the director on appeal. It is also noted that the residential rental agreement for the premises located at [REDACTED]

██████████ located in Salt Lake County, Utah, which is the address claimed by the petitioner as his and L-P-'s "last address at which [they] lived together," lists the petitioner as the only party and is signed only by the petitioner on September 29, 2006. Again, the record contains no explanation for this discrepancy. Given the unexplained inconsistencies and discrepancies discussed above, the bills, financial documents, and tax documentation that were submitted to show a joint residence are insufficient to establish that the petitioner resided with L-P-. Consequently, the petitioner has not established by a preponderance of the evidence that he resided with his spouse, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

Battery or Extreme Cruelty

In addition to the documentation listed above, the record contains the following evidence relevant to the petitioner's claim that his spouse subjected him to battery or extreme cruelty during their marriage:

- The petitioner's notarized statements dated September 9, 2008, submitted upon receipt of the Prima Facie Determination notice, and August 20, 2009, submitted in response to the RFE;
- A police report dated December 19, 2007;
- A notarized statement from ██████████, dated January 16, 2008;
- A notarized statement from ██████████, dated July 28, 2009;
- A notarized statement from ██████████, dated July 25, 2009; and
- Copies of prescriptions for the petitioner, dated September 2008.

In his January 24, 2008 statement, submitted at the time of filing, the petitioner states, in part, that: "a while" after their marriage, L-P- "started to change, drinking and partying without control"; L-P- "got very bad into the drugs and alcohol"; L-P- sometimes did not come home and when she returned, she told him that she would kill herself if he left her; and L-P- yelled at him, insulted him, called him offensive names, hit him, and forced him "to have sex" with her. The petitioner states that he and L-P- attended a party together in November 2006, after which L-P- drove wildly and did not return home until the following day when she told him that she was going to leave him because he did not give her money for alcohol and drugs. The petitioner states that L-P- returned home a couple of days later and he forgave her, but her use of drugs and alcohol continued until he discovered in October [2007] that she had moved out. The petitioner states that: L-P- returned in December 2007, and became angry with the petitioner when he told her that she needed to get a job and pay her own debts, whereupon she shoved him against the wall, which caused bruising and abrasions on his face; L-P- verbally insulted him and "could get [him] in trouble with immigration whenever she wanted to"; his "roommate ██████████ heard and saw everything and L-P- "started to yell at him that he had to leave the apartment"; L-P- left and started calling him the following day with threatening messages that she would call "immigration" if he did not give her money; the petitioner filed a police report and a protective order because he feared for his life; and the petitioner missed work because he was depressed and went to see a psychologist.

In his September 9, 2008 statement, submitted upon receipt of the Prima Facie Determination notice, the petitioner states, in part, that: he started having problems with L-P- in November 2006; that L-P- “would threat, swear and throw stuff at [him] breaking it”; his life “became very unstable since 2003”; L-P- stole his mail, changed his passwords, and verbally insulted him; he has “called the police on her several times”; L-P- “shoved [him] against the wall causing [him] to hit the right side of [his] face leaving [him] bruising [sic] and abrasions on [his] face.”

In his August 20, 2009 statement, submitted in response to the RFE, the petitioner reiterates his history with L-P- from his previous statements and also states that: he started therapy with a psychologist; and L-P- verbally abused him, socially isolated him, stole from him, and made him become depressed, lonely, frustrated, and hopeless.

In the December 19, 2007 police report, the officer described the December 9, 2007 incident that the petitioner discussed in his January 24, 2008 statement. The police officer states, in part, “[The petitioner] advised that he was not injured in any way when [L-P-] pushed him into the wall and stated that he did not fear for his safety and did not believe [L-P-] was intending on harming him. . . . he believed only that [L-P-] was frustrated that he was refusing to give her the money.” The police officer also stated, “I did not observe any injuries present on [the petitioner’s] face.”

In the Request for Protective Order signed by the petitioner on December 20, 2007, the petitioner states that he has been separated from L-P- for ten months and reports the December 9, 2007 incident that he discussed in his January 24, 2008 statement. The petitioner states that L-P- “shoved [him] against the wall causing [him] to hit the right side of his face leaving bruising and abrasions to the side of [his] face and swelling and abrasions to the right side of [his] forehead. . . . Petitioner states that he is in fear of imminent danger and future violence . . .”

In her January 16, 2008 statement, [REDACTED] states, in part, that she saw how the petitioner and L-P- “struggled with her ‘drugs’ problems” after they were married. [REDACTED] also states, “On several occasions I saw that she was high and started abusing of him [sic] with verbal offenses he only tried to ‘calmed’ her, but when she was clean she was nice and loving to him, like nothing had happened.” [REDACTED] also states that the petitioner called her “all depressed and worried because he didn’t know her whereabouts.”

In his January 16, 2008 statement [REDACTED] states, in part, that he started living with the petitioner and L-P- in December 2006, and that he saw L-P- abuse drugs and alcohol and abuse the petitioner verbally, physically, and psychologically. [REDACTED] describes the December 2007 incident that the petitioner discusses in his January 24, 2008 statement, and states that L-P- “pushed [the petitioner] and he hurt himself . . . he missed work, he was so depressed that he didn’t even [go] out [of] his room.”

In her July 28, 2009 statement, [REDACTED] states, in part, that she has been a friend of the petitioner and L-P- for almost nine years and that she “could only be there for [the petitioner] on those nights he

would call [her] late at night crying and desperate for [L-P-].”

In his July 25, 2009 statement, [REDACTED] states, in part, that he and his wife went out to dinner many times with the petitioner and L-P- after their marriage. [REDACTED] also states that he suddenly noticed that the petitioner was depressed, thinner and sad all the time, so he “invited him to talk.” [REDACTED] states that the petitioner “cried because he loved her very much and he was having a hard time trying to get through the situation.”

In his psychological evaluation dated May 8, 2008, [REDACTED] specifies the dates of his evaluation as March 12, 13, 19, 21, and 26, 2008, and April 2, 9, 23, and 29, 2008, and May 7, 2008, and states, in part, that he met with the petitioner “on several occasions over a two month period to evaluate him and to offer psychological crisis intervention to him.” [REDACTED] reiterates the petitioner’s history with L-P-, including the December 9, 2007 incident, and also states that the petitioner reported to him that he “began suspecting that [L-P-] abused alcohol and drugs, but he was not certain of it until about mid 2004.” [REDACTED] finds that the petitioner’s “clinical pattern of chronic severe depression and anxiety is similar to the pattern seen in posttraumatic stress disorder (PTSD).” [REDACTED] concludes that L-P- “inflicted unusually harsh psychological abuse, consistent with extreme mental cruelty, upon [the petitioner]. . . . [resulting in the petitioner’s] clinically severe pattern of depression and anxiety.”

In his psychological evaluation dated July 27, 2009, [REDACTED] states, in part, that subsequent to his May 8, 2008 evaluation, “[the petitioner] became involved in outpatient psychotherapy with [him] to attempt to overcome the clinically severe depression and anxiety that he developed as a result of [PTSD].” [REDACTED] reiterates the petitioner’s history with L-P-, and again concludes that L-P- “inflicted unusually harsh psychological abuse, consistent with extreme mental cruelty, upon [the petitioner]. . . . [resulting in the petitioner’s] clinically severe pattern of depression and anxiety.” [REDACTED] also concludes, “With psychotherapy involvement, [the petitioner] has been able to overcome overt manifestations of PTSD [and] continues to show depression and anxiety symptomatology, but it is now more related to his uncertain immigration status.”

In this case, we do not find the relevant evidence sufficient to meet the petitioner’s burden of proof. The AAO acknowledges the petitioner’s assertions on appeal that L-P- mistreated and humiliated him. However, as stated by the director in his decision, the record contains inconsistencies and deficiencies and the petitioner does not address these issues on appeal. For example, the petitioner’s testimony that he and L-P- separated in October 2007, conflicts with his statement on the Request for Protective Order, dated December 20, 2007, in which he states that he and L-P- have been separated for ten months, which indicates that they separated in February 2007. In addition, the December 19, 2007 police report, in which the petitioner “advised that he was not injured in any way when [L-P-] pushed him into the wall and stated that he did not fear for his safety and did not believe [L-P-] was intending on harming him,” conflicts with the December 20, 2007 Request for Protective Order, in which the petitioner describes the same incident but states that L-P- “shoved [him] against the wall causing [him] to hit the right side of his face leaving bruising and abrasions to the side of [his] face and swelling and abrasions to the right side of [his] forehead” and states further that “he is in fear of imminent danger

and future violence . . .” It is also noted that the reporting officer in the December 19, 2007 police report “did not observe any injuries present on [the petitioner’s] face.” In addition, as stated by the director in his decision, the petitioner did not indicate in the police report that there were any witnesses to the December 9, 2007 incident, which conflicts with [REDACTED] January 16, 2008 statement, in which he asserts that he witnessed the incident. Again, the record contains no explanation for these inconsistencies and/or discrepancies. The director also found that the petitioner provided inconsistent testimony to [REDACTED] in his May 8, 2008 psychological evaluation. For example, the petitioner reported to [REDACTED] that he and L-P- had been separated for four months at the time of his first March 12, 2008 session with [REDACTED] which conflicts with the petitioner’s statement in the December 20, 2007 Request for Protective Order, that he and L-P- had been separated for ten months, indicating that they had separated in February 2007. Thus, according to the information reported by the petitioner in the December 20, 2007 Request for Protective Order, at the time of the petitioner’s first March 12, 2008 session with [REDACTED], the petitioner and L-P- had been separated for more than a year. In addition to the inconsistencies discussed by the director, the petitioner provides inconsistent testimony in his September 9, 2008 statement, when he states that he had problems with L-P- “since November 2006,” but also indicates that “[his] life became very unstable since 2003” when he married L-P-. In addition, although he claims that he “called the police on her several times,” the record contains no evidence in support of his claim. Again, the record contains no explanation for these inconsistencies and/or discrepancies.

The AAO acknowledges the additional statements, discussed above, from [REDACTED] and [REDACTED]. Their observations of the petitioner, which include L-P- verbally abusing the petitioner, the petitioner crying and desperate for L-P-, and the petitioner depressed, thinner, and sad, fail to establish that he was the victim of any act or threatened act of physical violence or extreme cruelty, that L-P-’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.

The AAO has reviewed the psychological evaluations from [REDACTED], dated May 8, 2008 and July 27, 2009, respectively. [REDACTED] evaluations do not establish that the petitioner was subjected to battery or extreme cruelty by his wife during their marriage. Although [REDACTED] specifies in his May 8, 2008 evaluation the “dates of evaluation” as March 12, 13, 19, 21, and 26, 2008, and April 2, 9, 23, and 29, 2008, and May 7, 2008, and states, in part, that he met with the petitioner “on several occasions over a two month period to evaluate him and to offer psychological crisis intervention to him,” he does not specify the length of his sessions with the petitioner. In addition, although [REDACTED] states in his July 27, 2009 evaluation, that subsequent to his May 8, 2008 evaluation, the petitioner “became involved in outpatient psychotherapy with [him] to attempt to overcome the clinically severe depression and anxiety that he developed as a result of [PTSD],” again, [REDACTED] does not specify any details of the petitioner’s outpatient psychotherapy, such as the dates and length of the sessions. It is also noted that, as stated herein and by the director in his decision, the petitioner provided testimony to [REDACTED] that conflicts with the petitioner’s testimony that is reported in other documentation, including the December 19, 2007 police report and the December 20, 2007 Request for Protective Order, which detracts from the probative value of [REDACTED] evaluations. Moreover,

the petitioner reported to ██████████ that he “began suspecting that [L-P-] abused alcohol and drugs, but he was not certain of it until about mid 2004,” which conflicts with the petitioner’s September 9, 2008 statement, in which he states that he had problems with L-P- “since November 2006,” and that “[his] life became very unstable since 2003” when he married L-P-. Given the unexplained inconsistencies and/or discrepancies discussed herein, it is unclear that the alleged abuse by the petitioner’s spouse was a causative or contributing factor to the petitioner’s mental and/or physical health condition.

While we do not question the expertise of ██████████, his testimony fails to establish that the petitioner was subjected to battery or extreme cruelty by his spouse. As stated previously, ██████████ evaluations contain information that is either deficient or conflicts with the petitioner’s own testimony, which detracts from the probative value of ██████████ evaluations. In sum, ██████████ does not provide substantive, probative information indicating that the petitioner was subjected to actual threats, controlling actions or other abusive behavior that was part of a cycle of psychological or sexual violence.

In this case, we do not find the petitioner’s evidence sufficient to meet the petitioner’s burden of proof. The petitioner has failed to establish that L-P-’s actions were comparable to the types of 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 L-P-’s behavior was part of an overall pattern of violence or coercion. As noted by the Ninth Circuit Court of Appeals, “[b]ecause every insult or unhealthy interaction in a relationship does not rise to the level of domestic violence . . . , Congress required a showing of extreme cruelty in order to ensure that [the law] protected against the extreme concept of domestic violence, rather than mere unkindness.” *See Hernandez v. Ashcroft*, 345 F.3d 824, 840 (9th Cir. 2003) (interpreting the definition of extreme cruelty at 8 C.F.R. § 204.2(c)(1)(vi)).

As discussed herein, the petitioner has not demonstrated that he resided with his wife 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.

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.