

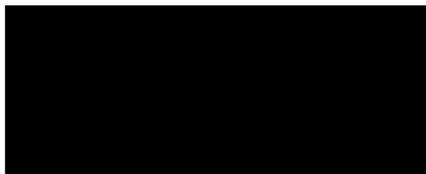
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



Bq.

DATE: JUL 25 2011 OFFICE: VERMONT SERVICE CENTER

FILE:

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:

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 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 Immigration and Nationality Act (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 his wife subjected him to battery or extreme cruelty during their marriage; (3) that he married his wife in good faith; and (3) that he has complied with the provisions of section 204(c) of the Act, 8 U.S.C. § 1154(c). On appeal, counsel submits a brief and additional documentation.

*Applicable Law*

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, the following:

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:

- (iv) *Eligibility for immigrant classification.* A self-petitioner is required to comply with the provisions of section 204(c) of the Act . . . .  
\* \* \*
- (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 standard and 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.

Section 204(c) of the Act states, in pertinent part, the following:

[N]o petition shall be approved if –

- (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative . . . status as the spouse of a citizen of the United States . . . by reason of a marriage determined by the [Secretary of Homeland Security] to have been entered into for the purpose of evading the immigration laws, or
- (2) the [Secretary of Homeland Security] has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

The regulation corresponding to section 204(c) of the Act, located at 8 C.F.R. § 204.2(a)(1)(ii), states the following:

*Fraudulent marriage prohibition.* Section 204(c) of the Act prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws. The director will deny a petition for immigrant visa classification filed on behalf of any alien for whom there is substantial and probative evidence of such an attempt or conspiracy, regardless of whether that alien received a benefit through the attempt or conspiracy. Although it is not necessary that the alien have been convicted of, or even prosecuted for, the attempt or conspiracy, the evidence of the attempt or conspiracy must be contained in the alien's file.

#### *Pertinent Facts and Procedural History*

The petitioner, a citizen of Sierra Leone, married S-M-,<sup>1</sup> a citizen of the United States, on October 28, 2004. He filed the instant Form I-360 on November 12, 2008. The director issued a subsequent request for additional evidence to which the petitioner, through counsel, filed a timely response. After considering the evidence of record, including the petitioner's response to the request for additional evidence, the director denied the petition on January 13, 2010.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review of the entire record, we find that the petitioner has overcome the director's determination that he failed to demonstrate his good faith entry into marriage with S-M-. However, he has failed to overcome the director's determination that he was not subjected to battery or

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

extreme cruelty perpetrated by S-M- during their marriage and that he has not complied with section 204(c) of the Act. Beyond the decision of the director, we also find that because the petitioner has not complied with section 204(c) of the Act, he is consequently ineligible for immediate relative classification based upon his marriage to S-M-.

*Battery or Extreme Cruelty*

In his October 29, 2008 letter submitted when he filed the petition, the petitioner stated that when he questioned S-M- about overdrawing their joint checking account, she hit him and threw unspecified "objects" at him. He also stated that S-M- abused him by threatening his immigration status; calling him names; telling him that he worked for her; failing to help him with household chores; making unusual sexual demands; and keeping their daughter from him.

The petitioner also submitted two letters dated October 29, 2009 in response to the director's request for additional evidence. In the first letter, he stated that S-M- isolated him from their daughter after S-M- moved from their joint residence. In his second letter, the petitioner stated that S-M- made false allegations against him that he abused their daughter. He also alleged that S-M- isolated him from his friends and family members and threatened his immigration status. We note that the petitioner did not allege physical abuse by S-M- in either of these letters.

In his January 26, 2010 letter submitted on appeal, the petitioner stated that S-M- was "physically aggressive"; threatened his immigration status; called him names; forced him to perform sexual acts with which he was uncomfortable and referred to him as her "sex slave"; isolated him from his friends and from the couple's daughter; overdrew their joint bank account; stole his personal information in order to set up an online account with her healthcare provider; and pursued a "quest to destroy" the petitioner.

The petitioner also submitted letters from friends regarding the alleged abuse. In his October 24, 2009 letter, [REDACTED] stated that S-M- overdrew the couple's joint bank account; verbally abused the petitioner; and threatened his immigration status; made false allegations that the petitioner abused the couple's daughter; and isolated him from their daughter. In his October 23, 2009 letter, [REDACTED] stated that S-M- ridiculed the petitioner's ethnic heritage; threatened his immigration status; isolated him from their daughter; and threw unspecified objects at him. Finally, the petitioner also submitted a September 23, 2008 letter from his divorce lawyer, [REDACTED], who reiterated the petitioner's testimony regarding S-M-'s attempts to keep the petitioner from the couple's daughter.

The record also contains two letters from [REDACTED] a psychotherapist. In his September 23, 2008 letter, [REDACTED] stated that the petitioner told him that he had been degraded, belittled, and emotionally abused by S-M-. In his October 25, 2009 letter, [REDACTED] briefly discussed the custody dispute between S-M- and the petitioner. [REDACTED] stated in both letters that the petitioner suffers from anxiety as a result of S-M-'s behavior.

Finally, the petitioner submitted documentation indicating he has taken prescription and over-the-counter medication to manage his anxiety as well as evidence documenting the ongoing custody dispute between himself and S-M- over their daughter.

Upon review, the relevant evidence does not establish that the petitioner was subjected to battery by S-M- during their marriage. First, the petitioner's testimony is inconsistent: as noted, although he claimed to have been physically abused in his initial statement, he made no such claims in his second and third statements. Moreover, at a more basic level, the testimony of the petitioner lacks detailed, probative information regarding specific instances of physical abuse. For example, his statements that S-M- was "physically aggressive" and threw unspecified "objects" at him are insufficiently detailed. Accordingly, the petitioner has not established that S-M- battered him during their marriage.

Nor does the relevant evidence establish that S-M-'s non-physical behavior constituted extreme cruelty. To qualify for immigrant classification under section 204(a)(1)(A)(iii) of the Act, the statute and regulation require that the non-physical cruelty be extreme. *See Hernandez v. Ashcroft*, 345 F.3d 824, 840 (9<sup>th</sup> Cir. 2003) (interpreting the definition of extreme cruelty at 8 C.F.R. § 204.2(c)(1)(vi)). The petitioner's allegations of psychological and sexual abuse, as well as his statements that S-M- isolated him and threatened his immigration status lack the probative detail necessary to establish his claim. Nor do the statements from the petitioner's affiants provide the necessary detail, and the other actions of S-M- described by the petitioner and her affiants are not comparable to types of behaviors listed at 8 C.F.R. § 204.2(c)(1)(vi) as examples of extreme cruelty.

While we do not question his professional expertise, the letters from [REDACTED] do not establish that the petitioner was subjected to either battery or extreme cruelty, either. [REDACTED] makes no mention of any battery perpetrated by S-M- against the petitioner, and his description of the alleged cruelty to which the petitioner was allegedly subjected is devoid of probative detail.

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

#### *Good Faith Entry into Marriage*

The director's determination that the petitioner failed to demonstrate his good faith entry into marriage with S-M- is withdrawn. The record contains several types of the documentation suggested in the regulation at 8 C.F.R. § 204.2(c)(2)(vii) as evidence of good faith entry into marriage. In particular, we note that the petitioner and S-M- had a daughter together during their marriage on August 19, 2006. Although section 204(c) of the Act bars approval of this petition, the fraud perpetrated by the petitioner in this case was committed in connection with a prior marriage, not his marriage to S-M-.

The petitioner has established that he entered into marriage with S-M- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act, and the director's contrary determination is hereby withdrawn.

*Section 204(c) of the Act*

The director also found that section 204(c) of the Act bars approval of this petition. The regulation at 8 C.F.R. § 204.2(c)(1)(iv) requires the self-petitioner to comply with section 204(c) of the Act in order to establish eligibility for immigrant classification as the abused spouse of a U.S. citizen, and we concur with the director's determination that the record in this case does not demonstrate such compliance.

A decision that section 204(c) of the Act applies must be made in the course of adjudicating a subsequent visa petition. *Matter of Rahmati*, 16 I&N Dec. 538, 539 (BIA 1978). USCIS may rely on any relevant evidence in the record, including evidence from prior USCIS proceedings involving the beneficiary. *Id.* However, the adjudicator must come to his or her own, independent conclusion and should not ordinarily give conclusive effect to determinations made in prior collateral proceedings. *Id.*; *Matter of Tawfik*, 20 I&N Dec. 166, 168 (BIA 1990).

Evidence that a marriage was not entered into for the primary purpose of evading the immigration laws may include, but is not limited to, proof that the beneficiary has been listed as the petitioner'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 together. *Matter of Phillis*, 15 I&N Dec. 385, 386-87 (BIA 1975).

The record indicates that the petitioner was married to at least two other individuals prior to his marriage to S-M-. He married R-J-<sup>2</sup> a citizen of the United States, on March 20, 1989, and they divorced on May 20, 1991. Despite the fact that he was no longer married to R-J- by July 1, 1991, the petitioner and R-J- nonetheless filed Form I-751, Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status, on that date. During the course of the adjudication of the petition, questions arose regarding the veracity of certain supporting documents filed in connection with the petition. In particular, the legacy Immigration and Naturalization Service (INS) questioned whether the signature on the Form I-751 purported to be that of R-J- was actually hers, as well as whether the signature on the residential lease submitted by the petitioner purported to be that of R-J- was actually hers. Both signatures appear unnatural, and neither resembles the "live" signature taken from R-J- directly during a December 16, 1992 interview she attended with R-J-.

On the basis of such concern the legacy INS officer adjudicating the Form I-751 requested that the Chief Forensic Document Analyst at the Forensic Document Laboratory (FDL) of the legacy INS Intelligence Division perform a handwriting analysis of the two signatures. The FDL determined that two signatures in question were in fact not made by R-J-, as purported, but were rather "unnaturally executed 'drawn' signatures." The FDL made a specific finding that the two signatures in question had not been made by the same person who had executed the "live" signature taken from R-J- directly during the December 16, 1992 interview, indicating that R-J- in fact did not sign the Form I-751 and residential lease as purported by the petitioner.

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

The petitioner filed Form I-752, Application for Waiver of Requirement to File Joint Petition for Removal of Conditions, on February 7, 1992. In his February 5, 1992 cover letter submitted in support of the Form I-752, the petitioner's then-counsel stated that R-J- and the petitioner separated after the Form I-751 was filed, and that divorce proceedings were still pending. However, prior counsel's statement was not correct: first, as noted, the divorce was granted on May 20, 1991, before the Form I-751 was filed, and not after, as stated by prior counsel. Second, because the divorce was granted before the Form I-751 was filed, the couple presumably separated before the Form I-752 was filed, and not after, as stated by counsel.

The legacy INS issued a notice of intent to deny (NOID) the petitioner's Form I-752 on May 20, 1994. The NOID stated, in part, that "[i]t is apparent that your I-752 . . . was filed as an attempt to gain permanent residence through fraudulent means." The district director stated that due to the presence of the documents containing fraudulent signatures purported to be those of R-J- as well as conflicting statements by R-J- regarding the relationship, the petitioner had failed to establish that he had married R-J- for any reason other than to procure entry into the United States and obtain permanent residence. The legacy INS found the petitioner's response to the NOID insufficient, and denied the petition on August 9, 1994, terminating his conditional permanent resident status.

A Form I-221, Order to Show Cause and Notice of Hearing (OSC), was issued to the petitioner on September 14, 1994. The OSC again notified the petitioner that his conditional permanent resident status had been terminated on the basis of the Attorney General's determination that he had entered into marriage with R-J- for no "purpose other than to procure entry into the United States as an immigrant."

The petitioner married T-M-<sup>3</sup> a citizen of the United States, on October 11, 1997. T-M- filed Form I-130, Petition for Alien Relative, on behalf of the petitioner on December 16, 1997, and the petitioner filed Form I-485, Application to Register Permanent Residence or Adjust Status, on the same date. The Form I-485 was denied on December 20, 2001. Although the Form I-485 was denied because no immigrant visa number was immediately available, the legacy INS raised section 204(c) of the Act in its decision denying the application when it discussed the fraudulent documentation submitted by the petitioner in connection with his permanent residency processing based upon his prior marriage to R-J-. The district director affirmed his decision denying the Form I-485 in response to a subsequent motion to reconsider on March 10, 2005.

U.S. Citizenship and Immigration Services (USCIS) issued a NOID regarding the Form I-130 that T-M- had filed on behalf of the petitioner on May 11, 2004, which notified the petitioner that section 204(c) of the Act barred approval of the petition. The district director denied the Form I-130 on June 23, 2004 and stated, in pertinent part, that "it is still the opinion of the Service that [the petitioner] entered into a previous marriage with [R-J-] for the purpose of evading the [i]mmigration laws of the United States."

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<sup>3</sup> Name withheld to protect individual's identity.

S-M- filed a Form I-130 on behalf of the petitioner on March 28, 2005, and it was approved on June 14, 2005. However, the director issued a notice of intent to revoke (NOIR) approval of the petition on March 15, 2007, again raising section 204(c) of the Act and the petitioner's submission of documents containing fraudulent signatures by R-J-. After reviewing the documentation submitted by the petitioner in response to the NOIR, the director issued a subsequent request for additional evidence on August 15, 2007. R-J- subsequently withdrew the Form I-130, and approval of the petition was revoked.

In his August 7, 2009 request for evidence in the instant petition, the director notified the petitioner that the evidence of record did not overcome the grounds of section 204(c) of the Act and requested that he submit additional evidence. However, in his October 30, 2009 letter submitted in response to the director's request for additional evidence, counsel stated that the petitioner would rely upon the evidence already contained in the record. As the director had already notified the petitioner that such evidence was inadequate, he made the determination that section 204(c) of the Act bars approval of this petition.

On appeal, counsel asserts that the director erred in denying the petition on this ground. Noting correctly that there must be substantial and probative evidence of an attempt or conspiracy to enter into a marriage for the purpose of evading the immigration laws, counsel argues that the marriage between R-J- and the petitioner was in fact bona fide and legitimate. Counsel asserts that documentary evidence of shared financial obligations is difficult to obtain because the marriage occurred more than 20 years ago and because R-J- was young and poor. Counsel also states that the director's decision was based upon "nothing at all except for the inability of the Petitioner to present documentary evidence of a joint relationship," and that he "did not manufacture evidence, submit false testimony or otherwise attempt to ameliorate his precarious position by lying or otherwise evad[ing] the immigration laws." Counsel, however, did not address the petitioner's submission of documents determined by the FDL to have contained the forged signatures of R-J-. Nor did he address the fact that the petitioner filed a Form I-751 and held himself out to the legacy INS as still married to R-J- after they divorced.

Upon review, we concur with the director's determination that approval of the petition is barred by section 204(c) of the Act. As a preliminary matter, we note that, contrary to counsel's assertion, section 204(c) of the Act has been raised on multiple occasions during the adjudication of several petitions filed by or on behalf of the petitioner. The May 20, 1994 decision of the legacy INS denying the petitioner's Form I-752 found, in part, stated that the petitioner had failed to establish that he married R-J- for any reason other than to procure entry into the United States and obtain permanent residence. The September 14, 1994 OSC reminded the petitioner that his conditional permanent resident status had been terminated because he had entered into marriage with R-J- for no "purpose other than to procure entry into the United States as an immigrant." The December 20, 2001 decision denying the petitioner's Form I-485 also raised section 204(c) of the Act.

Moreover, the petitioner submitted at least two documents containing forged signatures for R-J-: her signature on the Form I-751 filed by the petitioner was forged; and her signature on a residential lease submitted in support of the Form I-751 was also forged. The legacy INS took a live signature

from R-J- during an interview, and the Forensic Document Laboratory determined that the signatures on the Form I-751 and residential lease submitted in support of the Form I-751 purported to be from R-J- were in fact forgeries. Although the FDL's fraud determination has been referenced on multiple occasions across nearly twenty years of notices and decisions issued by USCIS and the legacy INS, including the director's January 13, 2010 decision denying the instant petition, counsel and the petitioner have elected not to address it on appeal.

The FDL's fraud determination, coupled with the fact that the petitioner filed the Form I-751 and held himself out to the legacy INS still as married to R-J- after they had divorced, constitutes substantial and probative evidence that the petitioner entered into marriage with a United States citizen for the purpose of evading the immigration laws of the United States and subsequently sought immediate relative status on the basis of that marriage. Moreover, although the record contains testimonial evidence from R-J-, her family, and friends of the petitioner regarding the validity of the marriage, those letters do not speak to the intentions of the petitioner but rather to the individuals who wrote them. The petitioner's testimony of record regarding his relationship with R-J- is vague and lacking in detailed, probative information. More importantly, he has failed to adequately explain why he held himself out to the legacy INS as still married to R-J- when he was in fact not, and he has failed to establish that the signatures determined to be fraudulent were in fact not.

Upon independent review of the entire record, we concur with the director's decision that approval of this petition is barred by section 204(c) of the Act, as the relevant evidence of record indicates that the petitioner entered into marriage with R-J- for the purpose of evading the immigration laws of the United States.

#### *Ineligibility for Immediate Relative Classification*

Section 204(a)(1)(A)(iii)(II)(cc) of the Act requires a self-petitioner to demonstrate his or her eligibility for immediate relative classification based on his or her relationship to the U.S. citizen abuser. The regulation at 8 C.F.R. § 204.2(c)(1)(iv) explicates that such eligibility requires the self-petitioner to comply with, *inter alia*, section 204(c) of the Act. As discussed above, the petitioner here has failed to comply with section 204(c) of the Act. He is consequently ineligible for immediate relative classification based upon his marriage to S-M- and is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act for that reason. Beyond the decision of the director, the petition may not be approved for this additional reason.

#### *Conclusion*

As set forth above, the petitioner has demonstrated that he married S-M- in good faith. However, he has failed to establish that S-M- abused him during their marriage or that he has complied with the provisions of section 204(c) of the Act. Beyond the decision of the director, we find that because the petitioner has not complied with section 204(c) of the Act, he is ineligible for immediate relative

classification based upon his marriage to S-M-<sup>4</sup> Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act and this petition must remain denied.

The petition will remain denied and the appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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 and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

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<sup>4</sup> An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9<sup>th</sup> Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d at 145 (noting that the AAO conducts appellate review on a *de novo* basis).