

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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 20520-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



39

FILE:



Office: VERMONT SERVICE CENTER

Date: **MAR 31 2011**

IN RE:

Petitioner:



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 Director, Vermont Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition remains denied.

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 determined that the petitioner had not established that she had jointly resided with a United States citizen, or that she had been subjected to battery or extreme cruelty perpetrated by a United States citizen. On appeal, counsel submits a brief and additional documentation.

Applicable Law and Regulations

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 based on his or her relationship to the abusive spouse, 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 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 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 under section 204(a)(1)(A)(iii) of the Act are set forth 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.

Facts and Procedural History

The petitioner is a native and citizen of China. She entered the United States on May 2, 2003 on a K-3 visa. She claims she married J-T-, the claimed abusive United States citizen, on September 13, 2001 in China. On or about November 5, 2004, she filed a Form I-485, Application to Register Permanent Residence or Adjust Status. On November 3, 2008, the petitioner filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. On January 12, 2010, the director issued a request for evidence (RFE). Upon review of the record, including the petitioner's response to the RFE, the director determined that the petitioner

had not established that she had jointly resided with J-T-, and that she had been subjected to battery or extreme cruelty perpetrated by J-T-. Counsel for the petitioner timely submits a Form I-290B, Notice of Appeal or Motion, and provides a brief and documentation in support of the appeal.

Residence

The petitioner in this matter indicates on the Form I-360 that she jointly resided with J-T- from May 2003 to August 2008. In the petitioner's initial statement dated October 27, 2008, the petitioner indicated that she lived with J-T- in China after the couple married. During this time, the petitioner indicated that she had a child with another man. The petitioner also noted that on May 2, 2003, she and J-T- began their travel to the U.S. but that J-T- was stopped at the airport and not allowed to leave China. The petitioner reported that he arrived in the United States a few days later after traveling through another country. The petitioner stated that in April or May 2003, J-T- hired an attorney to prepare her green card application and also around that time he left for business and did not return until July 19, 2003. She also noted that in September 2004, she learned that J-T- had affairs with many women and that she also had an affair and had a second child from her relationship with this man. The petitioner noted that around August 2007, J-T- wanted to move to a better place and in October 2007 told her that his company had transferred him to New York. The petitioner indicated further that in February 2008, the couple moved to San Diego and the restaurant where she worked provided her with free food and lodging and because she was working long hours it was hard for her to come home every night. The petitioner indicated that in July 2008, she moved to Los Angeles. The petitioner noted that on July 16, 2008, J-T- called her and told her that immigration officers had visited their home in San Diego and were going to deny her immigration case because she was not at the home. The petitioner indicated that she drove to San Diego and stayed in a motel with J-T- because he told her that the landlord of their house did not allow them to live there anymore. The petitioner reported that on July 26, 2008 she moved out of the motel and began staying with one of J-T-'s friends. The petitioner stated that she moved back to Los Angeles on August 2, 2008.

The record also included photocopies of several leases, including a lease allegedly signed on August 1, 2003, but showing the published date of the form as 2005. The record also included the petitioner's Form G-325A, Biographical Information sheet showing that she lived at [REDACTED] from May 2003 to July 2004 and then moved to [REDACTED] in July 2004 to present (September 30, 2004). The petitioner's updated G-325A shows that the petitioner lived at [REDACTED] from May 2003 and then moved to [REDACTED] and lived there from November 2003 to December 2004 before moving to [REDACTED] in November 2004 where she remained until December 2006. The petitioner's updated G-325A also shows that the petitioner moved to [REDACTED] in January 2007 until February 2008 before moving to [REDACTED] from March 2008 to present (June 10, 2008).

¹ The street name is sometimes spelled as Fremont and sometime spelled as Fremont in the record.

² The street name is spelled differently throughout the record, sometimes spelled as Clairemont,

The record also included copies of the petitioner and J-T-'s federal tax returns. The 2004 Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return, for J-T- showed that he was single and living at 6339 Wine Court. The 2005 IRS Form 1040 showed the couple married and filing jointly and living at an address on [REDACTED]. The 2006 IRS Form 1040 showed the couple married and filing jointly and living at the 2500 Fremont address. The 2007 IRS Form 1040X, Amended U.S. Individual Income Tax Return, indicated that the couple had erroneously filed their federal tax returns separately and amended their return to file jointly. The 2007 amended return showed the couple's address as [REDACTED] and that it was amended in June 2008. The record also included bank statements from February 2007 to April 2008 and IRS Forms W-2, Wage and Tax Statement for the couple showing various addresses.

In response to the director's RFE, the petitioner provided a second personal statement dated March 10, 2010. The petitioner stated that from 2001 to 2003 the couple lived in China and when they moved to the United States, they first resided with J-T-'s aunt at the [REDACTED] address and that they lived at the [REDACTED] address from March 2008 to July 2008. The petitioner noted that J-T- bought a standard lease form for the [REDACTED] address at the landlady's request and that he filled out the lease and then everyone signed it. The petitioner acknowledged that the couple used the same form to manufacture evidence to show that they lived at [REDACTED] which was then provided to United States Citizenship and Immigration Services (USCIS).

The director questioned the authenticity of two of the leases submitted because the petitioner's husband had completed the forms, not the landlord, and had backdated one of the leases. The director determined that the petitioner had not provided sufficient credible evidence to establish that she had jointly resided with J-T-.

On appeal, counsel for the petitioner asserts that the petitioner explained the preparation of the two questionable leases in her response to the director's RFE and that the director had not questioned the authenticity of the lease for the Fremont Avenue address. Counsel contends that the bank statements from February 2007 to April 2008, pay stubs for both the petitioner and J-T-, and the 2006 joint tax return included the couple's names and the Fremont address. Counsel observes that there is no requirement regarding the duration of the joint residency and also references the petitioner's personal affidavits in support of the Form I-360.

Upon review of the record, the AAO concurs with the director's ultimate determination. The petitioner does not provide consistent, probative evidence of her claimed joint residence with J-T-. The petitioner's willingness to manufacture evidence to present to USCIS in support of obtaining an immigration benefit as well as her listing of a post office box on one of the Biographical Information forms (Form G-325A) undermines her credibility regarding her actual residences. Although the petitioner has provided some documentation indicating that she received mail at certain addresses, there is insufficient testimony or other evidence to support her claim that she lived at any of the addresses. The documentary information in the record does not provide a consistent

Claremont, and sometimes spelled as Clairmont.

account of the couple's alleged joint residences.

Moreover, upon review of the petitioner's statements, she does not provide any detail regarding her alleged residence with J-T- in China. She also fails to provide a detailed description of the claimed joint residences in the United States. Upon review of the totality of the record, the petitioner has not provided consistent testimony that supports her claim that she jointly resided with J-T- during their marriage.

Abuse

The petitioner in her initial statement indicated that once she and J-T- moved to the United States, she and J-T- fought about her phone calls to China because it was so expensive. The petitioner noted that J-T- would often disappear for a few days after they fought. The petitioner also indicated that after one of J-T-'s disappearances, he told her that he had been in jail for a month. The petitioner further indicated that after J-T-'s incarceration, around July 2003, he became more angry and violent and would throw things to intimidate her. The petitioner noted that J-T- continued to leave and not return for days and weeks at a time. The petitioner stated that she wanted to learn to drive, to work and become more independent but that J-T- would not allow it. In the next paragraph of the petitioner's statement she indicated that during an argument about her immigration case, J-T- told her she could not go outside or talk to anyone unless she found a job and made some money. The petitioner declared that J-T- had many affairs and that in August 2005, she received a letter from the immigration office indicating that J-T- was petitioning for another woman in China. The petitioner noted that in December 2006, as she was working and bringing home money, J-T- began demanding money from her and threatening her verbally with abandonment. The petitioner noted that in October 2007 J-T- disappeared for three months, after telling her his company had transferred him to New York. The petitioner declared that when J-T- lost his job in San Diego, he was upset by the termination and began tormenting her day and night so she moved to Los Angeles. The petitioner indicated that on July 16, 2008, J-T- called her and told her that immigration officers had visited them at their home. The petitioner noted that she immediately drove to San Diego but that J-T- told her they had to stay in a motel because the landlord would not let them in their house. The petitioner indicated that she was suspicious of J-T-'s story and so went to the house and when J-T- found out, he yelled at her and when she went to the house a second time and J-T- found out, he shouted at her and pushed her on the bed and threw a pillow and his cell phone at her, and then left the motel. The petitioner indicated that when she moved into one of J-T-'s friend's house, and J-T- found out, he demanded that she move out, that she pay the rent for the place he was staying at, and when she refused, he threatened that he would call immigration and withdraw the immigration petition. The petitioner noted that when she walked away from him, he grabbed her hair and shoved her onto the floor and snatched the phone from her when she tried to call the police. The petitioner also stated that she decided to move back to Los Angeles but J-T- would still call and leave voice messages that he was going to call immigration if she did not give him money.

The petitioner also provided a September 2, 2008 psychological evaluation prepared by [REDACTED] indicates that the petitioner reported similar information regarding her relationship with J-T- as she reported to USCIS but adds that the petitioner also

reported that often when J-T- would return home he would be drunk and demand sex and would rape her if she refused. [REDACTED] also added that the petitioner reported that J-T- would call her derogatory names. [REDACTED] found that the petitioner suffered major depression single episode-severe and post traumatic stress disorder and that the psychosocial stressor included abuse by husband, separation from children, and limited social support.

The record also included a declaration certifying that the petitioner had sought treatment at an acupuncture and herbal clinic

In response to the director's RFE, the petitioner provided a second personal statement. The petitioner noted that on July 31, 2008, she and J-T- had a big fight when she was staying at his friend's place. The petitioner reported that when she walked away from J-T-, he grabbed her hair, shoved her onto the floor, and when she struggled to leave the room, he pulled her so hard she hit the metal door knob with her back and although she tried to call the police, J-T- snatched her phone away. The petitioner noted that after the fight she was afraid and with friends' help she was able to escape to Los Angeles. The petitioner noted her belief that she injured her back when J-T- shoved her onto the floor. The petitioner also reported that in December 2008, when she wanted to get her winter clothes, J-T- told her he had thrown all her clothes and other belongings away.

The petitioner provided a February 23, 2010 statement from [REDACTED] who signed the statement on March 16, 2010. [REDACTED] declared that he had driven the petitioner to Los Angeles on August 2, 2008 and that the petitioner and his friend told him about the fight the petitioner had with J-T-. The record also included a note from [REDACTED] dated March 15, 2010, who indicated that the petitioner had been diagnosed with hypertension and her blood pressure was not controlled very well because of stress.

The director determined based on the evidence of record, that the petitioner had described only one physical altercation and had not described a pattern of battery. The director also observed that the psychological evaluation, the doctor's note, and the statements of the petitioner and others on her behalf, were not sufficient to establish that she had been subjected to battery or extreme cruelty as set out in the statute and regulation.

On appeal, counsel for the petitioner correctly points out that the petitioner is not required to establish that she was subjected to a "pattern of battery." The director's statement to the contrary is withdrawn. Counsel asserts that the petitioner was a victim of battery and extreme cruelty during her marriage. Counsel contends that the experience the petitioner described as occurring on July 31, 2008 and a second incident occurring in July 2008 constitute battery. Counsel also references the forced sexual intimacy noted in [REDACTED] September 2, 2008 psychological evaluation as evidence that the petitioner was subjected to battery. Counsel notes that any credible evidence, including unsupported affidavits, as long as they are credible, is sufficient to establish eligibility. Counsel observes that the director did not find the petitioner or any individuals who submitted statements on her behalf, unreliable or not credible. Counsel also references [REDACTED] psychological evaluation and claims that [REDACTED] examination revealed that the petitioner's cumulative stress from spousal abuse had caused her to develop multiple

symptoms of depression and anxiety and that as the petitioner did not have any past medical or psychiatric conditions prior to her marriage, such evidence reflected a direct relationship between the petitioner's physical condition and the abuse perpetrated by J-T-.

Counsel also contends that J-T-'s refusal to allow the petitioner to call China, refusal to purchase a plane ticket for her, refusal to pay for her driving lessons, demand that she not go outside or talk to anyone unless she was working, and his abandonment of her for days, weeks or months at a time are all evidence of psychological abuse. Counsel also references the petitioner's report to [REDACTED] that J-T- called her derogatory names, threatened to not sponsor her for a green card, demands for her money, and asserts that these actions constitute extreme cruelty. Counsel provides several articles on psychological abuse in support of his assertion that verbal abuse, financial and economic abuse, isolation, and intimidation and threats constitute psychological abuse.

Preliminarily, we acknowledge that section 204(a)(1)(J) of the Act requires USCIS to "consider any credible evidence relevant to the petition." Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J) and that this mandate is reiterated in the regulation at 8 C.F.R. § 204.2(c)(2)(i). However, this mandate establishes an evidentiary standard, not a burden of proof. Accordingly, "[t]he determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of [USCIS]." Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i). The evidentiary guidelines for demonstrating the requisite battery or extreme cruelty lists examples of the types of documents that may be submitted and states, "All credible relevant evidence will be considered." 8 C.F.R. § 204.2(c)(2)(iv). In this matter, as in all visa petition proceedings, the petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965). The mere submission of relevant evidence of the types listed in the regulation at 8 C.F.R. § 204.2(c)(2), including self-affidavits, will not necessarily meet the petitioner's burden of proof. While USCIS must consider all credible evidence relevant to a petitioner's claim of abuse, the agency is not obligated to determine that all such evidence is credible or sufficient to meet the petitioner's burden of proof. Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J); 8 C.F.R. § 204.2(c)(2)(i). To require otherwise would render the adjudicatory process meaningless.

In addition, 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 not provided credible, consistent statements describing instances of battery or extreme cruelty as defined by the statute and regulation.

Regarding battery allegedly perpetrated by J-T-, the petitioner described two incidents: one that occurred in July 2008, when J-T- allegedly pushed her on a bed and then threw a pillow and his cell phone at her before leaving the motel; and the second, apparently also in July 2008 when J-T- grabbed her hair, shoved her onto the floor and snatched the phone away when she tried to call the police. Even though these two incidents would have been fairly recent when she consulted [REDACTED] in September 2008, she does not report any physical altercations, other than forced sexual intimacy, physical abuse that she does not discuss in either her initial statement or

in her statement in response to the director's RFE. In addition, the petitioner in her second statement in response to the director's RFE, adds that the second incident occurred on July 31, 2008 and that J-T- pulled her so hard she hit the metal door knob with her back which she believes resulted in a physical injury. The addition of this information suggests that the petitioner is escalating the claimed abuse in order to establish eligibility for this benefit. The failure to provide a consistent account of her interactions with her spouse during the marriage and especially in July 2008 undermines the petitioner's credibility. The petitioner's statements and her statements to ██████████ do not provide detailed, credible testimony required to establish that she has been subjected to battery perpetrated by J-T-. Although as noted above, the petitioner is not required to establish a "pattern of battery" as determined by the director, the record does not include credible, detailed testimony establishing that she was a victim of battery.

The petitioner has also failed to establish that she was subjected to extreme cruelty as defined in the statute and regulation. Upon review of the petitioner's initial statement, the petitioner has not provided a detailed, credible description of specific circumstances and events that allegedly occurred during the couple's claimed seven-year relationship. For example, the petitioner indicated that she wanted to learn to drive, to work and become more independent but that J-T- would not allow it; but then stated that during an argument about her immigration case, J-T- told her she could not go outside or talk to anyone unless she found a job and made some money. In addition, the petitioner noted that J-T- had been incarcerated, that he left her for days, weeks, and months at a time, and that he was unfaithful. However, these incidents do not constitute extreme cruelty under the statute and regulation. Similarly, J-T-'s refusal to pay for telephone calls to China or a plane ticket or driving lessons does not establish that the petitioner was subjected to financial or economic coercion to a degree that constitutes extreme cruelty as set out by the statute and regulation.

Although the petitioner indicated that during arguments, J-T- would throw things and that J-T- would sometimes threaten her with abandonment or with withdrawing his immigration sponsorship, the petitioner does not provide the requisite detail including the particular circumstances of each event. The petitioner does not provide sufficient credible information to establish that J-T-'s actions constituted psychological abuse or were otherwise part of an overall pattern of violence.

Upon review of the psychological evaluation prepared by ██████████ noted that he examined the petitioner on August 4, and August 21 for an unspecified length of time. As observed above, ██████████ provides additional information regarding forced sexual intimacy, information the petitioner does not include in her statements to USCIS. Although ██████████ refers to the petitioner's report of J-T- calling her derogatory names, threatening to not sponsor her for a green card, and demanding her money, he does not provide information regarding specific acts of battery or extreme cruelty. The petitioner's report to ██████████ like her statements to USCIS, does not include sufficient information regarding J-T-'s behavior toward her to demonstrate that his actions constituted extreme cruelty under the statute and regulation. Accordingly, ██████████ diagnosis and opinion that the petitioner's depression and post traumatic stress disorder are caused by J-T-'s mental and sexual abuse is not based on a foundation establishing extreme cruelty or battery as defined in the statute and regulation.

Moreover, [REDACTED]'s finding, based on two interviews of unspecified length, fails to reflect the insight and elaboration commensurate with an established relationship with a mental health professional which further diminishes the value of his evaluation. [REDACTED] does not provide substantive, probative information indicating that J-T-'s behavior included actual threats, controlling actions or other abusive behavior that was part of a cycle of psychological or sexual violence. Similarly, the petitioner's medical diagnosis of hypertension by [REDACTED] and her visits to an acupuncture and herbal clinic have not been causally connected to battery or extreme cruelty perpetrated by J-T- as set out in the statute and regulation.

The statements of [REDACTED] as well as statements from other individuals in the record, do not reflect that these individuals witnessed any claimed abuse. The statements do not provide sufficient information to determine that the petitioner was subjected to battery or extreme cruelty perpetrated by J-T-.

Upon review of the petitioner's statements, the statements submitted on her behalf, as well as the psychological evaluation and medical letters, the record does not provide credible probative information that demonstrates that the petitioner was the victim of any act or threatened act of physical violence or extreme cruelty, that J-T-'s nonphysical behavior was accompanied by any coercive actions or threats of harm, or that his actions were aimed at insuring dominance or control over the petitioner. The petitioner has failed to establish that J-T-'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 J-T-'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)). In this matter, the record presented lacks sufficient credible information to establish that the petitioner was subjected to battery or extreme cruelty perpetrated by her spouse.

Conclusion

The petition will be denied and the appeal dismissed for the above stated reasons. As always, the burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here that burden has not been met.

ORDER: The appeal is dismissed. The petition remains denied.