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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

B9

DATE: **APR 16 2012** OFFICE: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: [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)

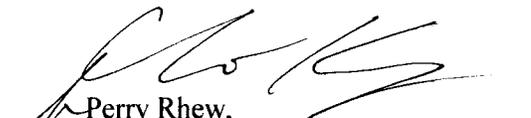
ON BEHALF OF PETITIONER:

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:** Although the service center director (the director) initially approved the immigrant visa petition he subsequently issued a notice of intent to revoke (NOIR), and ultimately revoked, approval of the petition. He affirmed his decision to revoke approval of the petition in response to a subsequent motion, 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 revoked approval of the petition on the basis of his determination that the petitioner failed to establish: (1) that she resided jointly with her former husband; (2) that her former husband subjected her to battery or extreme cruelty during their marriage; (3) that she married her former husband in good faith; and his finding that: (4) the petitioner would be subject to the bar at section 204(c) of the Act. On appeal, counsel submits a brief and additional evidence.

*Applicable Law*

Section 205 of the Act, 8 U.S.C. § 1155, states the following:

The Secretary of Homeland Security may, at any time, for what [she] deems to be good and sufficient cause, revoke the approval of any petition approved by [her] under section 204. Such revocation shall be effective as of the date of approval of any such petition.

The regulation at 8 C.F.R. § 205.2(a) states, in pertinent part, the following:

Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 [for automatic revocation] when the necessity for the revocation comes to the attention of [U.S. Citizenship and Immigration Services].

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:

(i) *Basic eligibility requirements.* A spouse may file a self-petition under section 204(a)(1)(A)(iii) . . . of the Act for his or her classification as an immediate relative . . . if he or she:

\* \* \*

(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) . . . of the Act based on that relationship [to the U.S. citizen spouse].

\* \* \*

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

(v) *Residence.* . . . The self-petitioner is not required to be living with the abuser when the petition is filed, but he or she must have resided with the abuser . . . in the past.

(vi) *Battery or extreme cruelty.* For the purpose of this chapter, the phrase “was battered by or was the subject of extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence. The qualifying abuse must have been committed by the citizen . . . spouse, must have been perpetrated against the self-petitioner . . . and must have taken place during the self-petitioner’s marriage to the abuser.

\* \* \*

(ix) *Good faith marriage.* A spousal self-petition cannot be approved if the self-petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws. A self-petition will not be denied, however, solely because the spouses are not living together and the marriage is no longer viable.

The evidentiary 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.

\* \* \*

(iii) *Residence.* One or more documents may be submitted showing that the self-petitioner and the abuser have resided together . . . Employment records, utility receipts, school records, hospital or medical records, birth certificates of children . . . , deeds, mortgages, rental records, insurance policies, affidavits or any other type of relevant credible evidence of residency may be submitted.

(iv) *Abuse.* Evidence of abuse may include, but is not limited to, reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. Persons who have obtained an order of protection against the abuser or have taken other legal steps to end the abuse are strongly encouraged to submit copies of the relating legal documents. Evidence that the abuse victim sought safe-haven in a battered women's shelter or similar refuge may be relevant, as may a combination of documents such as a photograph of the visibly injured self-petitioner supported by affidavits. Other forms of credible relevant evidence will also be considered. Documentary proof of non-qualifying abuses may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.

\* \* \*

(vii) *Good faith marriage.* Evidence of good faith at the time of marriage may include, but is not limited to, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. Other types of readily available evidence might include the birth certificates of children born to the abuser and the spouse; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship. All credible relevant evidence will be considered.

Section 204(c) of the Act, 8 U.S.C. § 1145(c) 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 is a citizen of the People's Republic of China who entered the United States on June 19, 2000. She married C-L-,<sup>1</sup> a citizen of the United States, on July 26, 2000. Their marriage was lawfully nullified on October 31, 2006 due to C-L-'s commission of bigamy. The petitioner filed the instant Form I-360 on July 31, 2002, and it was approved on April 28, 2005. The director issued a NOIR on April 21, 2010 and the petitioner, through counsel, submitted a timely response. After considering the evidence of record, including the petitioner's response to his NOIR, the director revoked approval of the petition on November 19, 2010, and he affirmed his decision on March 18, 2011.

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 failed to overcome the director's grounds for revoking approval of this petition. Revocation of the approval of this petition was therefore proper pursuant to section 205 of the Act and 8 C.F.R. § 205.2(a).

*Attempt by the Petitioner, [REDACTED] and [REDACTED] to Conceal Their Familial Relationship*

The director's revocation of the petition's approval on the grounds specified above was based primarily upon his determination that the petitioner attempted to conceal her familial relationships with two of

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

the individuals who submitted statements in support of her petition. In her February 2, 2005 statement the petitioner claimed that "I had no relatives in the U.S.," and in her May 30, 2002 letter submitted by the petitioner, [REDACTED] recounted the petitioner tearfully telling her on two occasions that she had no relatives in the United States. In her January 16, 2005 affidavit, [REDACTED] again claimed that the petitioner had no relatives in the United States. However, despite these statements by the petitioner and [REDACTED] the petitioner has at least two relatives in the United States, both of whom submitted statements in support of the petition: her uncle [REDACTED] and her aunt, [REDACTED] and [REDACTED] submitted letters in support of the petitioner's claims of abuse, good faith marriage, and joint residency, and our review of those statements as well as those by the petitioner indicate that all three individuals actively tried to conceal their familial relationship from the director.

The record contains numerous attempts by these three individuals to conceal their familial relationship. For example, in her June 10, 2002 letter the petitioner described [REDACTED] as merely "a neighbor," and claimed that she and C-L- lived together in an apartment they rented from [REDACTED] whom she did not identify as her uncle. In similar fashion, the petitioner did not identify [REDACTED] as her uncle in her February 2, 2005 letter but instead described him as "a friend of [C-L-]," and stated that she only became friends with [REDACTED] and [REDACTED] after C-L- left the marriage. Although the petitioner referred to [REDACTED] as [REDACTED] wife on three separate occasions in her February 2, 2005 letter, she never identified [REDACTED] as her aunt.

In his August 26, 2003 letter [REDACTED] described himself as "a friend" of the petitioner and C-L-, and stated that although he subleased an apartment to the couple, he never increased their rent "because we are friends." In his January 21, 2005 affidavit, [REDACTED] explained that he was friends with C-L- prior to his marriage to the petitioner. When describing the abuse he allegedly witnessed, [REDACTED] described the petitioner as a "young, nice, polite girl." He did not identify himself as the petitioner's uncle in either letter.

In her May 30, 2002 letter, [REDACTED] stated that she was the petitioner's neighbor, and that they were both from the same city in China. [REDACTED] noted in her January 16, 2005 affidavit that she and the petitioner are "fellow country women" who were also from the same city, and that she "liked [the petitioner] when we met the first time." She also claimed that C-L- and [REDACTED] her ex-husband, were friends with one another. [REDACTED] did not identify herself as the petitioner's aunt in either letter.

The director notified the petitioner in his NOIR that U.S. Citizenship and Immigration Services (USCIS) records indicate that [REDACTED] is petitioner's maternal aunt, and that [REDACTED] was therefore her uncle. In response, the petitioner asserted that her failure to mention her relationship to [REDACTED] was an oversight. For her part, [REDACTED] claimed that she did not identify herself as the petitioner's aunt because she feared that doing so would diminish her credibility as a witness, as "USCIS would think I would say anything to help." [REDACTED] also blamed her "lack of education" for her failure to disclose her relationship to the petitioner. [REDACTED] stated that he did not disclose his familial relationship with the petitioner because he and [REDACTED] divorced a few months before he signed his first letter, and that he was therefore no longer the petitioner's uncle when he executed his letters. Finally, the petitioner claimed that she never told [REDACTED] she had no relatives in the United States, and that she does not know why [REDACTED] believed such to be the case.

The petitioner's explanation that her failure to properly identify [REDACTED] and [REDACTED] as members of her family was the result of simple oversight is not persuasive, particularly in the light of the fact that she specifically claimed in her February 2, 2005 statement that she had "no relatives in the U.S." We are not convinced by [REDACTED] explanation, either. Although [REDACTED] stated that he did not identify himself as the petitioner's uncle because he and [REDACTED] had divorced by the point, their divorce did not prevent him from referring to [REDACTED] as his wife several times: his letters implied that he and [REDACTED] were still married, and the address provided by both [REDACTED] and [REDACTED] indicated they were still sharing an apartment. Moreover, the petitioner's first letter was written before [REDACTED] and [REDACTED] divorced, and she did not identify him as her uncle. Finally, [REDACTED] conceded that she purposefully withheld her identity as the petitioner's maternal aunt from the director. Although the petitioner claimed she did not know why [REDACTED] believed the petitioner had no relatives in the United States, [REDACTED] stated that the petitioner had told her such was the case on two separate occasions while they were shopping together.

In her April 1, 2011 letter submitted on appeal the petitioner repeats the explanations given below by [REDACTED] and [REDACTED] regarding their failure to disclose their familial relationship to the petitioner. She also claims that she did not herself identify [REDACTED] and [REDACTED] as members of her family because she was focused upon the details of the abuse allegedly perpetrated by C-L-. She also asserts that when counsel reviewed her statements with her, he read them aloud very quickly. Counsel repeats the assertions of the petitioner, [REDACTED] and [REDACTED] on appeal, and argues on appeal that the petitioner "has explained and rebutted the discrepancies."

We are not persuaded by the assertions made by counsel and the petitioner on appeal. The deficiencies regarding the explanations provided by [REDACTED] and [REDACTED] made below were discussed previously, and the repetition of those explanations on appeal by counsel and the petitioner does not cure them.

The combination of the petitioner's failure to properly identify [REDACTED] and [REDACTED] as her aunt and uncle, her assertion that she had no relatives in the United States, her submission of a letter from [REDACTED] that also claimed the petitioner had no relatives in the United States, and the failure of [REDACTED] and [REDACTED] to properly identify themselves as members of the petitioner's family, indicates clearly that the petitioner, [REDACTED] and [REDACTED] attempted to mislead the director into believing they were not related to one another. Their attempt to mislead the director detracts from the probative value of their testimony.

#### *Joint Residence*

The petitioner stated on the Form I-360 that she resided jointly with C-L- from June 19, 2000 until September 15, 2001. Although the petitioner, [REDACTED] and [REDACTED] submitted statements in support of the petitioner's allegedly joint residence with C-L-, none of them described the couple's apartment, any shared belongings, or their residential routine in probative detail. Furthermore, their testimony was built around the false impressions they gave that they were not related to one another, and their attempt to conceal their familial relationship diminishes the probative value of their testimony regarding the petitioner's allegedly joint residence with C-L-.

The remaining testimonial evidence, which consists of brief statements made by [REDACTED] and [REDACTED] does not establish the petitioner's requisite joint residence with C-L- either, as they provided no probative information regarding the couple's allegedly joint residence.

The relevant documentary evidence also does not establish that the petitioner resided with C-L-. The handwritten rent receipts from [REDACTED] do not provide the address of the property being rented, and the rental receipts from [REDACTED] name neither the petitioner nor C-L-. Although the bank statements, tax return, and life insurance policy all provide a joint address for the couple, none of these documents establish that they lived together. There is no evidence that both individuals had access to, and used, the bank account. The tax return was not signed by the petitioner, it did not display the joint address claimed by the petitioner, and there is no evidence it was actually filed with the Internal Revenue Service. The life insurance policy was signed by the petitioner on April 28, 2001 and processed by the company on May 7, 2001, shortly before her May 31, 2001 immigration interview. On appeal, counsel merely asserts that the evidence submitted below established the requisite joint residence, and counsel intimates that USCIS bears the burden "to show why these evidences were not probative and substantial." Counsel fails to acknowledge that the petitioner bears the burden to establish her eligibility. Sections 204(a)(1)(A)(iii)(I) and 291 of the Act, 8 U.S.C. §§ 204(a)(1)(A)(iii)(I), 291.

Considered in the aggregate, the relevant evidence fails to establish that the petitioner resided with C-L- as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act, and the director had good and sufficient cause to revoke approval of the petition on this ground.

#### *Battery or Extreme Cruelty*

In her statements submitted below and on appeal the petitioner claimed that C-L- yelled at her; called her names; criticized her appearance; ridiculed her background; failed to provide for her financial needs; was frequently absent; was physically violent; committed bigamy; and eventually left her. The petitioner explained that her Chinese culture prevented her from telling her friends about the abuse, as such matters are kept within the family, and she had no family members in the United States. She also claimed that although she eventually told her close friends and coworkers about the abuse, they were unable to offer much help. [REDACTED] and [REDACTED] described the fighting they heard coming from the couple's apartment as well as an incident of physically abusive behavior they witnessed. However, the testimony of these three individuals regarding the alleged abuse does not establish the petitioner's claim, as their testimony was predicated on the false premise that they were not related to one another, which diminishes its credibility and probative value.

Furthermore, although the petitioner claimed in her February 2, 2005 statement that she was prescribed medication in 2002, the notes regarding her counseling sessions from that time period specifically stated that no medications had been prescribed. Her attempt to explain this inconsistency on appeal is not persuasive. According to the petitioner, her psychotherapist said she would prescribe medication during a follow-up visit, but the petitioner never scheduled the follow-up visit due to financial concerns. However, the petitioner did not claim in her February 2, 2005 statement that the psychotherapist said a prescription would be issued at a later date; she specifically claimed that it had

actually been prescribed. This additional inconsistency diminishes further the probative value of the petitioner's testimony.

Nor does the remaining testimonial evidence establish that C-L- abused the petitioner during their marriage. ██████ stated that the petitioner told her that C-L- had slapped her. She also stated that because the petitioner had no relatives in the United States, she had nowhere to turn. However, she did not provide a probative account of any specific incidents of abuse. Nor did ██████ describe any specific incidents of abuse in probative detail.

The record also contains a letter from ██████. In that letter, ██████ stated that the petitioner received services on two occasions and submitted assessments that were prepared following each of the petitioner's visits. The first assessment was dated June 10, 2002, and the assessor stated that the petitioner was experiencing nightmares and feelings of stress, anxiety, helplessness, and insecurity. The second assessment was dated November 24, 2004, and the assessor diagnosed the petitioner with an Adjustment Disorder with Depressed and Anxious Mood, Post-Traumatic Stress Disorder (PTSD), and Depression. The record also contains a psychological evaluation dated June 3, 2002 from ██████, who diagnosed the petitioner with PTSD and Major Stress Disorder and stated that the petitioner had experienced suicidal thoughts as a result of the alleged abuse.

The assessments submitted by ██████ and the evaluation from ██████ do not establish that C-L- abused the petitioner during their marriage. While we do not question the professional expertise of ██████ or the individuals whose assessments were submitted by ██████, their submissions did not contain detailed accounts of any specific instances of abuse perpetrated by C-L- against the petitioner during their marriage.

When considered in the aggregate, the relevant evidence fails to establish that C-L- abused the petitioner during their marriage, and counsel does not address this ground for denial on appeal. The petitioner has failed to establish that C-L- subjected her to battery or extreme cruelty during their marriage, as defined in the regulation at 8 C.F.R. § 204.2(c)(1)(vi) and as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act and the director had good and sufficient cause to revoke approval of the petition on this ground.

#### *Good Faith Marriage*

The relevant testimonial evidence does not establish that the petitioner married C-L- in good faith. In her statements submitted below and on appeal the petitioner stated, in very general terms, that she met C-L- in October 1999 while he was in China on a business trip, and that during their courtship he returned to China to visit her many times prior to her June 2000 entry into the United States with a fiancée visa. However, she did not describe their courtship, wedding ceremony, and shared residence and experiences, apart from the alleged abuse, in probative detail. The same is true of the testimony from the petitioner's affiants: neither ██████ nor ██████ discussed the couple's relationship in probative details, apart from the alleged abuse. Furthermore, as discussed above, the testimony by the petitioner, ██████ and ██████ is of little probative

value because it was centered around their attempt to create the illusion they were unrelated to each other.

The relevant documentary evidence does not establish that the petitioner married C-L- in good faith, either. The pictures of the couple demonstrate only that C-L- and the petitioner were together on several occasions and do not establish that the petitioner married him in good faith, the letter dated November 26, 1999 allegedly sent by the petitioner to C-L- contains no probative information about their relationship, and the evidentiary deficiencies regarding the rent receipts, bank statements, tax return, and life insurance policy were discussed previously.

On appeal, counsel does not address this ground for denial except to briefly assert that the evidence submitted demonstrates the petitioner's good faith. Considered in the aggregate, the relevant evidence does not establish that the petitioner married C-L- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act and the director had good and sufficient cause to revoke approval of the petition on this ground.

*Section 204(c) of the Act and Corresponding Ineligibility for Immediate Relative Classification*

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 petitioner's testimony regarding her marriage lacks probative details regarding the couple's courtship, wedding ceremony, shared residence, and experiences together. Her affiants' testimony also lacked such information, and the evidentiary deficiencies regarding the testimonial and documentary evidence submitted by the petitioner, [REDACTED] and [REDACTED] was discussed previously.

An independent review of the entire record shows that section 204(c) of the Act bars approval of this petition because the record contains substantial and probative evidence that the petitioner entered into marriage with C-L- for the purpose of evading the immigration laws of the United States. Because the petitioner has not complied with section 204(c) of the Act, she is also ineligible for immediate relative classification based upon her marriage to C-L- and is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act for that additional reason.<sup>2</sup> 8 C.F.R. § 204.2(c)(1)(iv).

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<sup>2</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.

*Conclusion*

The petitioner has failed to overcome the director's grounds for revocation of the petition and has failed to establish that she resided with C-L-; that he subjected her to battery or extreme cruelty during their marriage; and that she married him in good faith. Section 204(c) of the Act further bars approval of her petition and she is consequently ineligible for immediate relative classification based upon her marriage to C-L-. Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act and the director had good and sufficient cause to revoke approval of the petition pursuant to section 205 of Act and 8 C.F.R. § 205.2(a).

In these 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 Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). She has not met her burden and the appeal will be dismissed.

**ORDER:** The appeal is dismissed. Approval of the petition remains revoked.

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*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).