



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF L-J-H-

DATE: DEC. 21, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act), § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director, Vermont Service Center, revoked approval of the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director revoked approval of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on a finding that the evidence did not establish that the Petitioner resided jointly with his U.S. citizen spouse, was battered or subjected to extreme cruelty, and entered into the marriage in good faith. The Petitioner filed a timely appeal.

I. 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 he deems to be good and sufficient cause, revoke the approval of any petition approved by him 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)(I) of the Act provides that an alien who is the spouse of a U.S. citizen may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the U.S. 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 further 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].

An alien whose relationship with an abusive U.S. citizen has ended may still self-petition under this provision of the Act if the alien demonstrates "a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse." Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(aa)(CC)(ccc).

The eligibility requirements for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which provides, in pertinent part:

(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].

....

(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 or the self-petitioner's child, and must have taken place during the self-petitioner's marriage to the abuser.

.....

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

The evidentiary guidelines for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(c)(2), which states, in pertinent part:

(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.

(ii) *Relationship.* A self-petition filed by a spouse must be accompanied by evidence of citizenship of the United States citizen It must also be accompanied by evidence of the relationship. Primary evidence of a marital relationship is a marriage certificate issued by civil authorities, and proof of the termination of all prior marriages, if any, of . . . the self-petitioner

(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

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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.

II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner, a native and citizen of Colombia, married J-R-¹ a U.S. citizen, on [REDACTED] 2001, in [REDACTED] New York. He and J-R- divorced on [REDACTED] 2011. The Petitioner filed the Form I-360 on January 27, 2012. The Director approved the Form I-360 on August 9, 2013. On May 30, 2014, the Petitioner appeared for an interview relating to a Form I-485, Application to Adjust Status or Register Permanent Residence, he had filed. During that interview, the Petitioner provided information that conflicted with information he provided with the Form I-360. As a result, on December 6, 2014, the Director issued a notice of intent to revoke (NOIR) approval of the Form I-360. On April 23, 2015, the Director revoked approval of the Form I-360, indicating that the Petitioner did not reply to the NOIR.

On appeal, the Petitioner submits evidence that he filed a timely response to the NOIR. However, our *de novo* review of all relevant evidence in the record of proceedings indicates that the Director's determination to institute revocation proceedings and ultimately deny the Form I-360 for the reasons stated in the NOIR was not in error.

III. JOINT RESIDENCE

The preponderance of the relevant evidence does not establish that the Petitioner resided jointly with J-R- during their marriage. On the Form I-360, the Petitioner indicated that he resided with J-R- from January 2001 to November 2005, and he listed the last address at which they lived together as a residence on [REDACTED] New Jersey. In his personal declaration submitted with the Form I-360, the Petitioner claimed that he and J-R- spent time together in the United States and had a son

¹ Name withheld to protect the individual's identity.

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together, but he did not explicitly state that he and J-R- shared a residence. He also stated that he, J-R-, and J-R-'s daughter traveled to Colombia together to visit the Petitioner's family.

In response to a request for evidence (RFE) from the Director addressing, among other issues, whether the Petitioner resided with J-R- during their marriage, the Petitioner submitted two additional personal declarations, one in which he provided a timeline of his alleged joint residence with J-R-, and another in which he attempted to explain information, which the Director identified in the RFE as inconsistent, regarding joint residence. The Petitioner asserted that he moved into J-R-'s apartment at [REDACTED] in [REDACTED] New York, but did not indicate when that occurred. He also stated that, in October 2001, he took J-R- and her daughter to Colombia to visit his family, and that they stayed at the home of the Petitioner's mother in Colombia through January 2002, when J-R- insisted on returning to the United States. According to the Petitioner, he, J-R-, and J-R-'s daughter returned to [REDACTED] in February 2002, where they resided together. The Petitioner claimed that he and J-R- prepared for the arrival of their son, [REDACTED] who was born on [REDACTED]. He stated that he, J-R-, and their children "lived like a normal family" at the [REDACTED] address, and that he "stayed with them that whole year of 2003 . . ." The Petitioner further asserted that in 2004, J-R- "was throwing [him] out of the house and threatening [him] that she was not going to let [him] see the children; but [the Petitioner] always returned, and that occurred in 2004, until [they] went separate ways for good."

The Petitioner's personal declarations lack sufficient detail to establish that he resided jointly with J-R- during their marriage. Pursuant to section 101(a)(33) of the Act, "The term 'residence' means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent." In his personal declaration submitted with the Form I-360, the Petitioner did not clearly state that he and J-R- resided together. He did not provide an address at which they lived in the United States, describe any furnishings or shared belongings, or discuss marital routines in any shared residence. Although he provided some additional information in his declarations in response to the RFE, those declarations also lack probative detail. He stated in the first declaration in response to the RFE that he resided with J-R- and her daughter at [REDACTED] but he did not provide the date on which he moved into that residence. He also did not provide any detail regarding the home or any marital routines that occurred there. The second declaration in response to the RFE merely reiterates the information contained in the first declaration with respect to joint residence.

Additionally, although the Petitioner claimed to have resided with J-R- and her daughter in Colombia from October 2001 through January 2002, he did not provide details regarding the home they shared or their activities there. In the personal declaration submitted in response to the RFE, the Petitioner stated that he "took [J-R-] to Colombia to meet [his] family" and referred to their time in Colombia as a "visit" at the home of his mother and as a "trip." He also submitted a statement from his mother, [REDACTED] who stated that she spent time with the Petitioner and J-R- in October 2001, when they traveled to Ms. [REDACTED] home in Colombia. Ms. [REDACTED] did not state that the Petitioner and J-R- had a shared marital residence within her home. Also, the Petitioner provides on appeal another personal declaration, in which he indicates that, after he returned to Colombia, he visited J-R- and her children but does not specify when such visits occurred. Furthermore, evidence regarding the Petitioner's travel between the United States and Colombia suggests that he was residing in Colombia for some periods between 2002

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and 2004, despite his claim that he lived full-time with J-R- in [REDACTED] New York, from February 2002 until 2004. The Petitioner submits on appeal several airline ticket receipts and boarding passes bearing his name. Many of these documents do not list the year of travel, but others indicate that the Petitioner traveled from Colombia to the United States several times between mid-2002 and early 2004. For example, a receipt for an airline ticket indicates that the Petitioner traveled from Colombia to the United States on July 23, 2002, and returned to Colombia on July 26, 2002. Other receipts and boarding passes in the record show that he traveled from Colombia to the United States from August 18 to 21, 2002; November 2 to 6, 2002; December 3, 2002 to January 7, 2003; and March 2 to 9, 2004. This evidence indicates that the Petitioner's travel originated in Colombia and that he visited the United States for short periods of time; it does not support a finding that he was residing with J-R- in the United States, as he claims. Visits with a spouse, without sharing a "principal, actual dwelling place in fact," are not sufficient to demonstrate joint residence under section 204(a)(1)(A)(iii)(II)(dd) of the Act.

The Petitioner also submitted three psychological evaluations, none of which provide probative information to establish that the Petitioner resided jointly with J-R-. In a 2011 psychological evaluation submitted with the Form I-360, [REDACTED] stated that the Petitioner married J-R- in 2001 and separated from her in 2002. Ms. [REDACTED] also reported that, according to the Petitioner, he did not have a father-son relationship with the child he had with J-R- because "[t]he son lived with his mother." In a psychological evaluation submitted in response to the RFE, [REDACTED] a psychologist in Colombia, reported that she met with the Petitioner several times in 2013. Dr. [REDACTED] claimed that, according to the Petitioner, he sometimes traveled between Colombia and New York to visit J-R- and her daughter prior to their marriage. Dr. [REDACTED] also stated that, per the Petitioner's report, he and J-R- lived in the home of J-R-'s mother after they were married. Dr. [REDACTED] recounted that the Petitioner and J-R- moved to Colombia in October 2001 and returned to the United States in February 2002. Dr. [REDACTED] did not otherwise discuss specifically the Petitioner's residence with J-R-. Similarly, [REDACTED] Ph.D., indicates in an evaluation submitted on appeal that the Petitioner and J-R- moved to Colombia in October 2001 and later returned to the United States, but does not discuss specifically a shared residence by the Petitioner and J-R-.

Additionally, the record of proceedings contains unresolved inconsistencies regarding the timeline of the Petitioner's alleged joint residence with J-R-. Although he indicated on the Form I-360 that he resided with J-R- from January 2001 to November 2005, the divorce decree states that the Petitioner and J-R- separated on January 22, 2002. Similarly, Ms. [REDACTED] psychological evaluation states that the Petitioner and J-R- separated in 2002. In the second declaration submitted with his RFE response, the Petitioner attempted to explain this inconsistency. He stated that "on the psychological report, the doctor comments on a date, until the year 2002" The Petitioner stated that J-R- became distant while pregnant, which the psychologist "recognized . . . as a separation of bodies." It is unclear whether the Petitioner is referring to the evaluation by Ms. [REDACTED] or Dr. [REDACTED]. Neither psychological evaluation refers to a "separation of bodies." The Petitioner's explanation is not clear and does not sufficiently explain why Ms. [REDACTED] reported that he and J-R- separated in 2002. The Petitioner also contended in his second personal declaration submitted in response to the RFE that inconsistencies regarding joint residence were the result of the time that had passed since his relationship with J-R-, as well as the "ups and downs" in their relationship, and that he sometimes had to leave the home he

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shared with J-R- and stay with friends. However, the Petitioner did not provide a clear timeline of his joint residences with J-R- or specify how difficulties in the marriage support his claim of joint residence. Moreover, the Petitioner did not explain why his divorce decree also reflects that he and J-R- separated in 2002. Additionally, the record does not clarify why the Petitioner indicated on the Form I-360 that the last address where he lived with J-R- was on [REDACTED], New Jersey, but that address is not mentioned elsewhere in his statements or other documentary evidence.

With regard to inconsistent statements he made during his interview with U.S. Citizenship and Immigration Services (USCIS) on May 14, 2014, regarding the Form I-485, the Petitioner stated, in a letter submitted in response to the NOIR, that he was in "a state of panic" during the interview. He indicated that he felt that he was "discriminated against for being Hispanic" and that he was "harassed and accused" during the interview. According to the Petitioner, this resulted in a "lack of coordination in the responses," but that he did not tell the interviewing officer that the information in the Form I-360 was false. Dr. [REDACTED] also addresses the Petitioner's inconsistent statements made during the I-485 interview, claiming that the Petitioner's responses to the questions during his interview with USCIS were not a deliberate misrepresentation, but were caused by fear and confusion during the interview. However, these explanations do not specifically address any particular statements made by the Petitioner during his interview. Furthermore, regardless of the Petitioner's statements during the interview, the evidence in the record of proceedings regarding his alleged joint residence with J-R- lacks detail and contains other unresolved inconsistencies.

The record does not contain other evidence to support the Petitioner's claim of joint residence with J-R-. In his RFE response, the Petitioner stated that he did not have a lease, mortgage, or rent receipts because he and J-R- lived with J-R-'s mother, to whom they paid rent each month. The Petitioner also claimed that the utilities were included in the rent, so they did not have utility bills. The Petitioner submitted a document from a bank, indicating that he and J-R- opened two joint accounts on September 18, 2001, one day prior to their wedding. The document lists the address of the Petitioner and J-R- as [REDACTED] but this single document, which does not show that the bank account was used, does not overcome the lack of detail and inconsistencies in the record. Although the Petitioner also submitted mobile telephone bills from 2002, those bills list the Petitioner's name only and do not include an address. Furthermore, while the Petitioner submitted utility bills and bank account statements from 2011, those documents were issued after the Petitioner divorced J-R- and list addresses in Florida. The 2011 bank account statements also list the Petitioner's mother and sister as account holders. These documents are not relevant to the Petitioner's claim that he resided jointly with J-R- during their marriage. The preponderance of the relevant evidence, when considered in the aggregate, does not show that the Petitioner and J-R- resided together during their marriage, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

IV. BATTERY OR EXTREME CRUELTY

The preponderance of the relevant evidence also does not establish that the Petitioner was battered or subjected to extreme cruelty by J-R-. In his personal statement submitted with the Form I-360, the Petitioner claimed that J-R- humiliated him, called him names, blamed him for her problems, only

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permitted him to watch the television shows she liked, did not allow his family members to speak with him, and threatened to punish her children if the Petitioner did not obey her. Additionally, the Petitioner asserted that, after he and J-R- separated, J-R- did not allow him to see his son, [REDACTED]. The Petitioner further indicated that he was devastated to learn in January 2011 that [REDACTED] who was born in [REDACTED], was not his biological child.

In the first personal declaration submitted in response to the RFE, the Petitioner contended that J-R- became aggressive, criticized him, called him names, insulted him, screamed at him, controlled his finances, spent his money on expensive items, answered his telephone, and would not allow his friends and family to speak with him. Additionally, the Petitioner alleged that J-R- threatened to call immigration authorities. He also stated that J-R- raised her hand toward him with the intention of hitting him. Additionally, he claimed that J-R- mistreated her children and would not permit the Petitioner to intervene. Furthermore, the Petitioner alleged that J-R- humiliated and betrayed him by allowing him to believe that [REDACTED] was his son, then revealing years later that he was not [REDACTED] biological father, and preventing the Petitioner from seeing [REDACTED].

In her 2011 psychological evaluation, Ms. [REDACTED] reported that, according to the Petitioner, J-R- was unfaithful and deceptive with regard to the paternity of the child she had while married to the Petitioner. Ms. [REDACTED] stated that, based on the information the Petitioner provided, "emotional and economic abuse are presumed" In her 2013 psychological evaluation, Dr. [REDACTED] stated that, according to the Petitioner, J-R- began to "show symptoms of violence and abuse" while the couple was in Colombia. Dr. [REDACTED] indicated that, according to the Petitioner, J-R- insulted the Petitioner, called him names, prohibited him from attending church, and engaged in "multiple physical aggressions, bangs, slaps, throwing of objects" toward the Petitioner. Dr. [REDACTED] also noted that, per the Petitioner's report, he suffered from low self-esteem as a result of the deception by J-R- regarding the paternity of [REDACTED]. In his 2015 psychological evaluation, Dr. [REDACTED] asserts that the Petitioner was the victim of intimate partner violence by J-R-. Dr. [REDACTED] reports that, according to the Petitioner, J-R- "yelled, pushed, verbally abused, and threatened [the Petitioner]." Dr. [REDACTED] states that, according to the Petitioner, J-R- used "weapons," including "home furnishings, glasses, utensils, bottles, and other sundry object." Dr. [REDACTED] also indicates that J-R- accused the Petitioner of "looking for women," demanded his passwords to social networking accounts, monitored his mobile telephone, and did not permit him to see his friends. At the same time, per the Petitioner's account to Dr. [REDACTED], J-R- communicated with ex-boyfriends through social networks and spent large periods of time away from the home. Furthermore, Dr. [REDACTED] states that J-R- threatened to report the Petitioner to the police or to immigration officials. Finally, according to Dr. [REDACTED] the Petitioner suffered emotional trauma and depression due to the discovery that he was not the biological father of [REDACTED].

The Petitioner also submitted two letters from [REDACTED], a domestic violence center, with the Form I-360. The first letter, dated May 27, 2011, indicated that the Petitioner was registered for the center's domestic violence program on May 23, 2011, and had attended one Survivor Support Group. The second letter, dated November 4, 2011, stated that the Petitioner had attended two Survivor Support Groups. Additionally, the Petitioner submitted letters of support from friends and family members.

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_____ and _____ both claimed that the Petitioner experienced “emotional stress” after learning that he was not the biological father of the child he believed was his son, and that he lost his job due to the stress. In an additional letter filed in response to the RFE, Mr. _____ asserted that the paternity issue amounted to “psychological abuse, control and humiliation.”

The Petitioner’s sisters, _____ and _____, both stated that the Petitioner suffered emotional difficulties relating to the paternity of _____. In supplemental letters, _____ and _____ both claimed that J-R- insulted the Petitioner and called him names. _____ also stated that J-R- forced the Petitioner to do the cooking and cleaning, threatened him, and raised her hand at him, while _____ claimed that J-R- was aggressive toward the Petitioner, threatened to leave him if he did not do what she wanted, and isolated the Petitioner from his family.

The Petitioner’s mother, _____ alleged that the Petitioner requested a divorce from J-R- because of her “continuous infidelity.” Ms. _____ also stated that the Petitioner was “affected emotionally, psychologically and morally” upon learning that he was not _____ father, and that he has suffered “for the conjugal mistreatment” by J-R-. In an additional letter submitted in response to the RFE, Ms. _____ indicated that she witnessed J-R- using “strong words” toward the Petitioner while the couple was in Colombia, including threats to return to the United States without him and to prevent him from seeing J-R-’s daughter. Ms. _____ also reported that J-R- insulted the Petitioner, controlled his money, and raised her hand in an attempt to hit the Petitioner, and betrayed him with regard to the paternity of _____.

As additional evidence on appeal, the Petitioner submits a letter from J-R-, who states, in pertinent part, that she and the Petitioner had problems in their marriage. She asserts that she hurt the Petitioner by having an extramarital affair and lying to the Petitioner about the paternity of _____. J-R- indicates that she is aware that she caused suffering to the Petitioner by “destroying his dream of being a father”

The evidence of record does not contain probative detail regarding specific instances of battery or extreme cruelty. Although the evidence indicates that J-R- was unfaithful and dishonest regarding the paternity of _____ it does not demonstrate that the Petitioner was the victim of violent acts or an overall pattern of violence amounting to battery or extreme cruelty as defined in 8 C.F.R. § 204.2(c)(1)(vi). The majority of the statements in the record focus on the misrepresentation by J-R- regarding _____. Although this action affected the Petitioner emotionally, it is not comparable to the acts described in 8 C.F.R. § 204.2(c)(1)(vi), such as sexual abuse, forced prostitution, forceful detention, or other acts or threats of violence which qualify as battery or extreme cruelty. Additionally, although the Petitioner and his friends and family members also state that J-R- made threats and used abusive language toward the Petitioner, these statements are general in nature and do not provide probative details about specific incidents of abuse. Also, although Dr. _____ and Dr. _____ alleged in their psychological evaluations that J-R- was physically abusive toward the Petitioner, the Petitioner did not make such claims in his own declarations, and neither psychologist provided probative detail regarding specific incidents of physical abuse. Furthermore, the letters from

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reflect that the Petitioner attended two support group meetings, but do not state the reason for the Petitioner's attendance or provide any detail regarding any abuse he suffered.

Furthermore, the record contains inconsistencies regarding the Petitioner's knowledge of the paternity of . In his statements, the Petitioner emphasized that the emotional harm he suffered was due to raising as his own child for several years before learning that he was not biological father. However, the Petitioner's sister, stated in her letter of June 3, 2013, that she learned on April 17, 2003, that was born, and "that was when [the Petitioner] called [] and told [her] that he was destroyed and extremely sad . . . because [J-R-] had CONFESSED to him that [] was NOT his son" Similarly, Mr. indicated in his letter that J-R- put the Petitioner's name on birth certificate even though the Petitioner "reject [*sic*] that the child was his." Also, Mr. recalled that the Petitioner "disagreed from the beginning that the child was his." J-R-'s misrepresentation regarding the paternity of does not amount to extreme cruelty, but even if it did, the evidence does not clearly establish that the misrepresentation occurred when the Petitioner alleges it did. The statements of the Petitioner's sister and friends, which report that he was aware he was not the father at the time of birth, cast doubt on the Petitioner's claims that he was emotionally harmed as a result of being led to believe, for many years, that he was father. Therefore, the preponderance of the relevant evidence does not demonstrate that the Petitioner was battered or subjected to extreme cruelty by J-R- as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

V. GOOD-FAITH MARRIAGE

The preponderance of the evidence does not establish that the Petitioner married J-R- in good faith. In his personal declaration submitted with the Form I-360, the Petitioner stated that he fell in love with J-R- and married her on 2001. In the first personal declaration in response to the RFE, he indicated that the marriage was in good faith, that he fell in love with J-R- immediately after meeting her, that he felt she was "beautiful, tender, and enchanting," and that he "sent her flowers, brought her to several restaurants, sent her love letters," and then proposed. The Petitioner did not provide, in any of his declarations, probative details regarding his first meeting with J-R-, their courtship, their wedding ceremony, or their life together as spouses, as outlined at 8 C.F.R. § 204.2(c)(2)(vii). His statements focused on the alleged abuse and did not include discussions of shared interests, experiences, or marital routines.

Similarly, the Petitioner's friends and family members stated only that the Petitioner and J-R- were married and had trouble in their marriage. They did not provide any probative details regarding the Petitioner's marriage with J-R-, such as when or where the Petitioner met J-R-, what he told them about his relationship with her prior to marriage, or whether they attended the wedding.

Although J-R- indicates in her statement submitted on appeal that the marriage was in good faith, she also does not provide any detail about the how the couple met, their courtship, wedding, or life as spouses after the wedding. More importantly, J-R-'s brief statement that she and the Petitioner

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had a good faith marriage does not establish the Petitioner's own good faith intentions in entering the marriage, which is his burden to demonstrate ("the marriage or the intent to marry the United States citizen was entered into in good faith *by the alien* . . . (emphasis added))." See Section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Therefore, the Petitioner has not provided sufficiently detailed evidence to establish that he entered into marriage with J-R- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

VI. QUALIFYING RELATIONSHIP

Beyond the decision of the Director, the Petitioner has not established a qualifying relationship with J-R-. We may deny a petition that fails to comply with the technical requirements of the law even if the Director 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 (9th Cir. 2003); *Dor v. I.N.S.*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

The Petitioner and J-R- were divorced on [REDACTED] 2011, and the Petitioner filed the Form I-360 on January 27, 2012. A petitioner who divorces a U.S. citizen spouse within two years prior to the filing of the Form I-360 may petition under section 204(a)(1)(A)(iii)(I) of the Act if the petitioner establishes that the divorce was connected to battery or extreme cruelty by the U.S. citizen spouse. Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act. In this case, as noted above, the preponderance of the relevant evidence does not establish that the Petitioner was battered or subjected to extreme cruelty. Therefore, the Petitioner has not demonstrated a causal connection between his divorce and battery or extreme cruelty and, accordingly, the Petitioner does not have a qualifying relationship with J-R-. Additionally, he is ineligible for corresponding immediate relative classification under section 201(b)(2)(A)(i) of the Act.

VII. CONCLUSION

The evidence establishes that the Director had good and sufficient cause to revoke the approval of the Form I-360. Section 205 of the Act. The record does not demonstrate by a preponderance of the evidence that the Petitioner resided with J-R- during their marriage, was battered or subjected to extreme cruelty by J-R-, and married J-R- in good faith. Additionally, beyond the decision of the Director, the Petitioner does not have a qualifying relationship with J-R- and, accordingly, he is ineligible for corresponding immediate relative classification under section 201(b)(2)(A)(i) of the Act. The Petitioner is therefore ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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In these proceedings, the Petitioner bears the burden of proving eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). Here, the Petitioner has not met that burden. Accordingly, the appeal is dismissed.

ORDER: The appeal is dismissed.

Cite as *Matter of L-J-H-*, ID# 15044 (AAO Dec. 21, 2015)