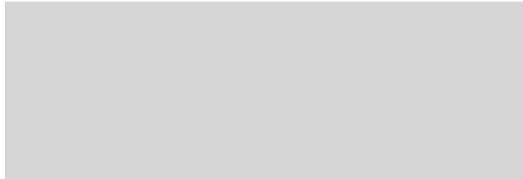




U.S. Citizenship
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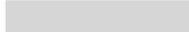
(b)(6)



DATE:

JUN 16 2015

FILE #:



PETITION RECEIPT #:



IN RE:

Self-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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the petition and the petitioner appealed to the Administrative Appeals Office (AAO). On appeal, we remanded the matter for further action. The matter is now before us upon certification of the director's subsequent, adverse decision. The decision of the director will be affirmed and the petition will remain denied.

The petitioner seeks immigrant classification pursuant to 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 her U.S. citizen spouse.

Pertinent Procedural History

The director first denied the petition on March 25, 2009, finding that the petitioner did not establish a qualifying spousal relationship with her former husband and the corresponding eligibility for immediate relative classification on the basis of that relationship; that she entered into the marriage in good faith; resided with him; and that he subjected her to battery or extreme cruelty. On appeal, the petitioner reasserted her eligibility. As the director denied the petition without first issuing a Notice of Intent to Deny (NOID) in compliance with the former regulation at 8 C.F.R. § 204.2(c)(3)(ii) (as in effect at the time the petition was filed), we withdrew the director's decision and remanded the proceedings for the director to issue a NOID, and to enter a new decision.

On remand, the director issued a NOID to the petitioner on August 22, 2012 seeking additional evidence of the petitioner's eligibility. When the petitioner failed to respond, the director denied the petition and certified the decision to us on January 16, 2013. We withdrew the director's decision, as the NOID was sent to the petitioner at an outdated address of record, and again remanded the matter to the director for the issuance of a NOID. The director issued a second NOID to the petitioner on April 21, 2014. The petitioner responded with additional evidence, which the director found insufficient to establish the petitioner's eligibility. The director denied the petition and certified the decision to us on December 18, 2014 for review.

In response to the Notice of Certification, the petitioner submits a brief and additional evidence.

Relevant Law and Regulations

Section 204(a)(1)(A)(iii)(I) 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)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II). An alien who has divorced an abusive United States citizen 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).

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].

The eligibility requirements are further explained in the regulation at 8 C.F.R. § 204.2(c)(1), which states, 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].

(ii) *Legal status of the marriage.* The self-petitioner’s remarriage . . . will be a basis for the denial of the pending self-petition.

* * *

(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 guidelines for a self-petition under section 204(a)(1)(A)(iii) of the Act are further explained 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.

* * *

(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.

Pertinent Facts and Additional Procedural History

The petitioner is a native and citizen of Cambodia who entered the United States on September 9, 2005 as the nonimmigrant fiancée of S-C-¹, a U.S. citizen. She claims to have married S-C- on [REDACTED] 2005 in [REDACTED] Washington. The claimed marriage terminated in divorce on [REDACTED], 2007 in [REDACTED] Washington. The petitioner filed the instant Form I-360 self-petition on February 5, 2007. The petitioner subsequently remarried on [REDACTED] 2008.

We review these matters *de novo*. Upon review of the entire record, as supplemented on certification, we find that the petitioner has not overcome any of the director's grounds for denying the petition. Beyond the director's decision, the petitioner cannot establish a qualifying spousal relationship with her U.S. citizen former husband because she remarried prior to the adjudication of the Form I-360 self-petition.² The director's decision will be affirmed for the following reasons.

Joint Residence

In the record before the director, the evidence did not establish that the petitioner resided with S-C-, and the petitioner has not overcome this ground for denial on certification. The record included copies of the petitioner's driver's license, marriage certificate, a LexisNexis report, two personal declarations, and statements from family and friends. The petitioner stated on the Form I-360 self-petition that she resided with S-C- from [REDACTED] 2005 to December 2006 and their last address was on [REDACTED] Washington ([REDACTED]). The driver's license and marriage certificate reflected the petitioner's [REDACTED] address, which as noted in our March, 2010 decision, did not establish that she resided with S-C. In response to the NOID, the petitioner submitted a LexisNexis report which was not probative in determining her joint address with S-C-.³

In the petitioner's initial declaration, she stated that she and her former husband resided with her father-in-law, V-C-⁴, and that she grew afraid of S-C- because of his mental illness. The petitioner recalled that in late 2006, S-C- "kicked [her] out" of the residence and in early 2007, she moved to her father-in-law's new home, where she lived on a separate side from her former husband. The claimed dates of joint residence at [REDACTED] on the self-petition are inconsistent with a biographical form G-325A, dated September, 2009, on which the petitioner indicated that she resided at [REDACTED] until October 2006, then moved to [REDACTED] Washington [REDACTED] from [REDACTED].

¹ Name withheld to protect the individual's identity.

² An application or petition that fails to comply with the technical requirements of the law may be denied by us even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that we review appeals on a *de novo* basis).

³ LexisNexis does not warrant or represent that the content of its website "will be correct, accurate, timely, or otherwise reliable." *See*, <http://www.lexisnexis.com/terms/> paragraph 11.

⁴ Name withheld to protect the individual's identity.

October 2006 until January 2007. In her second declaration, the petitioner claimed that she moved to [REDACTED] in late 2006, and returned to her father-in-law's new home at [REDACTED] Washington ([REDACTED]) from early 2007 until August, 2007. She asserted that her attorney listed incorrect dates on the documents submitted to United States Citizenship and Immigration Services (USCIS). However, the petitioner's second declaration created a new date inconsistency and her explanation that she was not responsible for the incorrect dates submitted did not resolve the inconsistency and was not accompanied by independent, objective documentation.

The petitioner submitted statements from her father-in-law, [REDACTED] and [REDACTED] attesting to her residence with her former husband at S-C-'s father's home in [REDACTED]. As discussed in our decision dated March 5, 2010, none of the statements contained probative detail of the petitioner's claimed residence with S-C-.

On certification, the petitioner submits background information for S-C- from LexisNexis. As the provider of the information disclaims its accuracy, the information will not be deemed reliable. The petitioner does not submit further information to establish that she resided with S-C- during their marriage. The petitioner has not resolved the noted discrepancies of record and when viewed in the aggregate, the preponderance of the evidence does not establish that the petitioner resided with S-C-, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act.

Entry into the Marriage in Good Faith

The relevant evidence submitted below and on certification does not demonstrate the petitioner's entry into the marriage in good faith. The record below contained the petitioner's two declarations, photographs from the engagement ceremony, statements from V-C-, S-C-, a friend, and some medical records of S-C-. In her declarations, the petitioner noted that she met S-C- in July 2004 when he was on vacation with his father in Cambodia, and after spending time together over a few weeks, owing to her parents' encouragement, she and S-C- became engaged. She stated that she and S-C- maintained long distance communication for a year, and the following summer, they spent time traveling and sightseeing together in Cambodia. She stated that she and S-C- spent the first few months after her arrival in the United States enjoying each other's company, and they married in [REDACTED] 2005.⁵ The petitioner indicated that she was happy with S-C- until early 2006, when he began acting strangely, which troubled her and affected their relationship. She indicated that although she left [REDACTED] in October 2006, she returned to V-C-'s new home to give the marriage another try. The petitioner's declarations did not provide further probative details about the marriage, other than the claimed abuse. The petitioner's statements were general in nature and did not provide sufficient probative details about the courtship, wedding ceremony, shared residence and experiences to establish that she entered into the marriage with S-C- in good faith.

⁵ The divorce proceedings indicate that the petitioner and S-C- married on [REDACTED] 2004 at [REDACTED] Cambodia, and that they separated on [REDACTED] 2005. This information is inconsistent with the petitioner's declarations in which she stated that she first met S-C- in July 2004 and that they married in [REDACTED] 2005. No explanation of record resolves this inconsistency.

The petitioner's former husband stated that he and the petitioner met in Cambodia in 2004 and became engaged mostly to please their respective families. He indicated that after they married, he felt that the petitioner changed, and his hallucinations intensified. S-C- stated that he thought telling the government that the petitioner was his cousin would alleviate his hallucinations.⁶ V-C-, the petitioner's father-in-law, indicated in an undated statement that he went with his son to Cambodia in 2003, and his friend introduced S-C- to the petitioner. V-C-'s statement that S-C- and the petitioner met in 2003 is inconsistent with the petitioner's and S-C-'s statements indicating that they met in 2004. Neither S-C- nor V-C- attested to the petitioner's good faith in marrying S-C-. [REDACTED] a friend of the petitioner, stated that the petitioner seemed to be happy with S-C- until about seven months into their marriage. Mr. [REDACTED] statement is inconsistent with the petitioner's declarations to the effect that she was happy for a couple of months after marrying S-C-. Mr. [REDACTED] did not indicate that he spent time with the claimed couple or identify personal knowledge to support his observation that the relationship seemed to change after seven months. None of the witnesses provided any probative detail of the courtship, the wedding ceremony, or the claimed couple's shared experiences and did not demonstrate that the petitioner married S-C- in good faith. The photographs from Cambodia showed the petitioner and S-C- participating in a wedding or engagement ceremony. However, without a probative account of their relationship, the photographs are insufficient to establish the petitioner's marital intentions.

On certification, the petitioner does not submit additional evidence of her good faith marital intentions. When viewed in the totality, the preponderance of the relevant evidence does not demonstrate that the petitioner entered into marriage with her former husband in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act.

Battery or Extreme Cruelty

The petitioner did not establish below that S-C- subjected her to battery or extreme cruelty during the marriage and the evidence on certification fails to overcome this ground for denial. The record before the director contained the petitioner's personal declarations, the statement of V-C-, two letters from advocates for victims of domestic violence, a psychiatric evaluation, and letters from friends.

The petitioner indicated in her initial declaration that in early 2006, S-C- began to engage in strange behavior such as throwing away his clothes, DVDs, the television and other items; and one day writing on the walls of his room with a marker. She stated that when she tried to stop S-C- from throwing his father's clothes away he pushed her into a wall. The petitioner recounted that on another occasion S-C- came into the house and started shooting plastic balls at her from a BB gun, and when she tried to get away he followed her around the house still shooting. She stated that the petitioner did not call her names or swear, but he yelled a lot and blamed his mental problems on

⁶ S-C-'s medical records indicate that he has a history of mental illness and felt "extremely guilty owing to a report of a phony marriage with his cousin in Cambodia so that she could immigrate to the United States."

her. In her second declaration, the petitioner reiterated her earlier statements and added that her S-C- sometimes locked himself in their bedroom for hours and that on these occasions she had to sleep on the couch. She stated that after his psychotic breakdown S-C- rarely spoke and when he did, he swore at her and threatened to send her back to Cambodia. She recalled that she once found S-C- with a sharp knife and she took it away and hid it from him; that a few times he hurt her physically, and once bruised her arm. She indicated that S-C- drove her out with his commentary to the effect he did not want her in the house. She stated that when she moved back in at the request of her father-in-law, S-C-'s behavior had not changed, and that he frightened her. The petitioner's first and second declarations were internally inconsistent in that the petitioner indicated in her first declaration that S-C- did not curse at her, and in her second declaration she provided specific instances of verbal swearing directed at her. In her initial declaration, the petitioner did not assert that there were any incidents of physical aggression toward her but in her second declaration, she described one instance during which she claimed that S-C- grabbed her tightly and bruised her, and another during which he pushed her against a wall. The petitioner's description of these events was general and did not provide sufficient probative detail about the claimed aggressive behavior to demonstrate that S-C- battered her or subjected her to extreme cruelty as that term is defined in the regulation at 8 C.F.R. § 204.2(c)(1)(vi).

The petitioner submitted a psychiatric evaluation from [REDACTED], LMHC. Ms. [REDACTED] indicated that the petitioner told her that S-C- became very strange, destroyed things in the house, and one night wrote all over the wall. Ms. [REDACTED] stated that the petitioner described a pattern of emotional abuse and physical aggression during her marriage to S-C-, arising out of his mental illness. Ms. [REDACTED] diagnosed the petitioner with major depressive disorder and psychosocial problems including, in part, her history of involvement in an abusive relationship with a mentally ill husband. Ms. [REDACTED] report of S-C-'s physical aggression and verbal cursing behavior relied on the petitioner's statements which have been determined to be internally inconsistent and thus not probative; and her evaluation did not provide further detail of the claimed abuse.

The petitioner's father-in-law, V-C-, indicated that S-C- yelled and damaged personal property, scaring the petitioner. Ms. [REDACTED] indicated that the petitioner told her that S-C- would throw away their personal property and yell at her and that the petitioner was anxious about moving in with S-C-. Mr. [REDACTED] stated that the petitioner told him that S-C- was swearing, grabbing her hand and pushing her out of the room, and the next day, he saw a bruise on the petitioner's arm. Mr. [REDACTED] statement is inconsistent with the petitioner's first declaration, in which she stated that S-C- did not swear at her, diminishing its probative value. Ms. [REDACTED] indicated that when she was eating at the petitioner's house, S-C- came from their room with a fake gun and shot plastic balls at the petitioner which hurt her. Ms. [REDACTED] did not provide further probative detail about the incident. The statements of these affiants did not demonstrate that S-C- battered the petitioner, or that his behavior involved threatened violence, psychological or sexual abuse, or otherwise constituted extreme cruelty as defined in the regulation at 8 C.F.R. § 204.2(c)(1)(vi).

The petitioner submitted a brief statement signed by [REDACTED] Women's Advocate, on November 13, 2006 indicating that the petitioner met with her on October 24, 2006 and November 8,

2006 to discuss issues relating to domestic violence. A second letter signed by a woman's advocate at the [REDACTED] indicated that the petitioner attended a domestic violence support group on November 15, 2006. The two statements did not provide any information regarding the claimed abuse suffered by the petitioner.

On certification, the petitioner has not provided further relevant evidence concerning the claimed abuse. When viewed in the aggregate, the preponderance of the relevant evidence does not demonstrate that the petitioner was battered or subjected to extreme cruelty by her former husband, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

Qualifying Relationship and Corresponding Eligibility for Immediate Relative Classification

As the petitioner has failed to establish the requisite battery or extreme cruelty on certification, she has also failed to demonstrate any connection between her divorce and such battery or extreme cruelty. Consequently, the petitioner has not demonstrated that she had a qualifying relationship with a U.S. citizen and her corresponding eligibility for immediate relative classification pursuant to subsections 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) and (cc) of the Act.

In addition, the certified photocopy of the petitioner's marriage certificate initially showed that the validity of the marriage license was from [REDACTED] 2006 to [REDACTED] 2006, the date of the marriage as [REDACTED], 2005, and the date the petitioner and S-C- signed the marriage certificate as [REDACTED] 2005. As the date of the marriage was two months prior to the validity of the marriage license, the director requested a marriage certificate sealed by the issuing office and signed by the registrar. In response, the petitioner submitted a copy of the identical certificate⁷ with a raised, but illegible, seal and on which both the date of the marriage and the date of each signature had been changed to [REDACTED], 2005. The petitioner also submitted the May 20, 2009 declaration of [REDACTED] the marriage officiant, who stated:

On [REDACTED] 2006 I officiated the marriage of [S-C-] and his former wife [the petitioner] in [REDACTED] Washington.

Although the Certificate of Marriage has a typographical error of [REDACTED] 2005, I actually married the couple of [sic] [REDACTED] 2006. This was a clerical mistake which should not be interpreted as being married the year previously.

In response to the NOID, the petitioner submitted a second declaration of Mr. [REDACTED] stating that he officiated the wedding on [REDACTED] 2005, and because the marriage license was not properly filed with the county, the petitioner obtained a new license on [REDACTED] 2006, which he mistakenly dated [REDACTED] 2005, and that he was working to amend the date on the marriage license. Mr. [REDACTED]'s two declarations created additional inconsistencies concerning the validity of

⁷ Both certificates bear a filing receipt number, [REDACTED] and filing date of [REDACTED], 2006 at 11:58.

the marriage license, and did not resolve the inconsistency created by the altered marriage certificate or establish that the petitioner's marriage to S-C- was appropriately licensed.

On certification, the petitioner states that her marriage is recognized as valid by the State of Washington. She submits statements from her former father-in-law and his former wife, D-B-,⁸ and from S-C-. V-C- and D-B- both state that they were witnesses to the [REDACTED] 2005 marriage between the petitioner and S-C-. S-C- states that he and the petitioner had a large marriage ceremony in Cambodia and a small wedding ceremony on [REDACTED] 2005 in the office of the petitioner's then attorney, [REDACTED]. All three affiants state that the [REDACTED] 2005 marriage took place in Mr. [REDACTED] office. This evidence does not establish the validity of the marriage between the petitioner and S-C-. The initial marriage certificate shows that the marriage license was issued after the date of the marriage.⁹ Mr. [REDACTED] statements provide three different dates on which he claims to have officiated the wedding ceremony, [REDACTED] 2005, [REDACTED] 2006 and [REDACTED] 2006. No evidence of record resolves these inconsistencies, and the record does not provide objective, independent evidence that the petitioner had a qualifying spousal relationship with S-C-. For these reasons also, the petitioner has not established a qualifying spousal relationship with a U.S. citizen and the corresponding eligibility for immediate relative classification based upon that relationship pursuant to subsections 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) and (cc) of the Act.

Remarriage

Beyond the director's decision, the petitioner cannot establish a qualifying spousal relationship with her U.S. citizen former husband because she remarried prior to the adjudication of the Form I-360 self-petition. The record contains a copy of a marriage certificate showing that the petitioner married J-M-¹⁰ on [REDACTED] 2008. The regulation at 8 C.F.R. § 204.2(c)(1)(ii) specifically states that remarriage prior to adjudication of a self-petition is a basis for denial. Remarriage at any point prior to filing or while the Form I-360 is pending negates the need for VAWA protection. *See Delmas v. Gonzalez*, 422 F.Supp. 2d 1299 (S.D. Fla. 2005) (alien's remarriage prior to filing self-petition was disqualifying). In subsequent amendments to the original Violence Against Women Act (VAWA) statutory provisions at section 204 of the Act, Congress has not disturbed USCIS' interpretation that remarriage prior to petition approval requires denial.¹¹ For this additional reason, the petition may not be approved.

⁸ Name withheld to protect the individual's privacy.

⁹ A marriage license is required in order to marry in Washington. *See*, REVISED CODE OF WASHINGTON 26.04.140.

¹⁰ Name withheld to protect the individual's identity.

¹¹ *See Victims of Trafficking and Violence Protection Act of 2000 (VTVPA)*, Pub. L. 106-386, 9(Oct. 28, 2000); *Violence Against Women and Department of Justice Reauthorization Act of 2005*, Pub. L. No. 109-162, (VAWA 2005); *Violence Against Women Reauthorization Act of 2013*, Pub. L. No. 113-4 (VAWA 2013).

Conclusion

On certification, the petitioner has not overcome any of the director's grounds for denial. She has not demonstrated that she entered into the marriage with S-C- in good faith, resided with him, and that he subjected her to battery or extreme cruelty during the marriage. The petitioner has not established a qualifying spousal relationship with a U.S. citizen and her corresponding eligibility for immediate relative classification on the basis of that relationship. Beyond the director's decision, the petitioner remarried prior to the adjudication of the instant self-petition, and is thus ineligible for the requested relief. Accordingly, the petitioner is ineligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act.

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 Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met. Accordingly, the director's decision will be affirmed and the petition will remain denied.

ORDER: The director's decision dated December 18, 2014 is affirmed. The petition remains denied.