



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

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

MATTER OF L-Z-

DATE: NOV. 24, 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, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on findings that the evidence did not establish that the Petitioner is eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act, was battered or subjected to extreme cruelty by his U.S. citizen spouse, and married his spouse in good faith. Additionally, the Director found that approval of the petition was barred by section 204(g) of the Act because the Petitioner married his spouse while in removal proceedings and did not establish eligibility for the *bona fide* marriage exemption under section 245(e) of the Act.

#### I. APPLICABLE LAW

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].

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].

....

(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.

....

(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.

In addition, the regulations require that, to remain eligible for immigration classification, a self petitioner must comply with the provisions of section 204(g) of the Act. 8 C.F.R. § 204.2(c)(1)(iv).

Section 204(g) of the Act, 8 U.S.C. § 1154(g), prescribes:

*Restriction on petitions based on marriages entered while in exclusion or deportation proceedings.* – Notwithstanding subsection (a), except as provided in section 245(e)(3), a petition may not be approved to grant an alien immediate relative status or preference status by reason of a marriage which was entered into during the period [in which administrative or judicial proceedings are pending], until the alien has resided outside the United States for a 2-year period beginning after the date of the marriage.

The corresponding regulation at 8 C.F.R. § 204.2(a)(1)(iii) states, in pertinent part:

*Marriage during proceedings—general prohibition against approval of visa petition.* A visa petition filed on behalf of an alien by a United States citizen . . . shall not be

approved if the marriage creating the relationship occurred on or after November 10, 1986, and while the alien was in . . . removal proceedings, or judicial proceedings relating thereto. Determination of commencement and termination of proceedings and exemptions shall be in accordance with § 245.1(c)[8] of this chapter, except that the burden in visa petition proceedings to establish eligibility for the exemption . . . shall rest with the petitioner.

Section 245(e) of the Act, 8 U.S.C. § 1255(e), provides an exception to section 204(g) of the Act as follows:

*Restriction on adjustment of status based on marriages entered while in exclusion or deportation proceedings –*

- (1) Except as provided in paragraph (3), an alien who is seeking to receive an immigrant visa on the basis of a marriage which was entered into during the period described in paragraph (2) may not have the alien's status adjusted under subsection (a).
- (2) The period described in this paragraph is the period during which administrative or judicial proceedings are pending regarding the alien's right to be admitted or remain in the United States.
- (3) Paragraph (1) and section 204(g) shall not apply with respect to a marriage if the alien establishes by clear and convincing evidence to the satisfaction of the [Secretary of Homeland Security] that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) . . . with respect to the alien spouse or alien son or daughter. In accordance with the regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.

The corresponding regulation at 8 C.F.R. § 245.1(c)(8)(v) states, in pertinent part:

*Evidence to establish eligibility for the bona fide marriage exemption.* Section 204(g) of the Act provides that certain visa petitions based upon marriages entered into during deportation, exclusion or related judicial proceedings may be approved only if the petitioner provides clear and convincing evidence that the marriage is bona fide

....

(b)(6)

*Matter of L-Z-*

## II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of China who last entered the United States on August 16, 1998, as a B-1 nonimmigrant visitor. He filed a Form I-589, Application for Asylum and Withholding of Removal, on September 16, 1999. His application was rejected as untimely and he was placed into removal proceedings on November 22, 1999.

The Petitioner married M-A-,<sup>1</sup> a U.S. citizen, on [REDACTED], 2004. M-A- filed a Form I-130, Petition for Alien Relative, on the Petitioner's behalf on December 27, 2004. The Form I-130 was denied on July 23, 2007, based on a finding that the Petitioner's marriage to M-A- was not *bona fide*. The Petitioner's Form I-485, Application to Register Permanent Residence or Adjust Status, which he filed on April 27, 2005, based on his marriage to M-A-, was administratively closed and later denied based on the denial of the Form I-130. The Petitioner and M-A- were divorced on [REDACTED] 2006.

The Petitioner married T-L-C-,<sup>2</sup> a U.S. citizen, on [REDACTED] 2008 in [REDACTED] California. T-L-C- filed a Form I-130 on the Petitioner's behalf on June 20, 2008, before the date of marriage listed on their marriage certificate. The Form I-130 listed the date of marriage between the Petitioner and T-L-C- as [REDACTED] 2008, but that was the date the marriage license was issued, not the date of marriage. The Director denied the Form I-130. T-L-C- filed an appeal with the Board of Immigration Appeals (Board), and, at the request of counsel for the Department of Homeland Security, the Board remanded the petition for further proceedings. The record does not indicate that those proceedings have occurred but removal proceedings were administratively closed on July 18, 2014.

The Petitioner filed the Form I-360 on March 13, 2014. The Petitioner and T-L-C- were divorced on [REDACTED], 2014. The Director issued requests for evidence (RFE) of the Petitioner's good moral character, joint residence with T-L-C-, battery or extreme cruelty by T-L-C-, and good-faith marriage. The Petitioner responded with additional evidence, which the Director found insufficient to establish that the Petitioner was battered or subjected to extreme cruelty by T-L-C- and married her in good faith. The Director also found that approval of the Petitioner's Form I-360 was barred by section 204(g) of the Act. Therefore, the Director denied the petition.

## III. GOOD-FAITH MARRIAGE AND SECTION 204(G) OF THE ACT

The Petitioner has not established by a preponderance of the evidence that he married T-L-C- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act, or by clear and convincing evidence as required to establish eligibility for the *bona fide* marriage exemption at section 245(e) of the Act.

On appeal, the Petitioner argues that the Director did not consider the Form I-360 in the context of the abuse the Petitioner suffered. He asserts that his actions following his marriage to T-L-C-,

---

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

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

(b)(6)

*Matter of L-Z-*

including enduring her abusive behavior, demonstrated that he married her in good faith, and that he submitted sufficient evidence to support his claim.

While identical or similar evidence may be submitted to establish a good-faith marriage pursuant to section 204(a)(1)(A)(iii)(I)(aa) of the Act and the *bona fide* marriage exemption at section 245(e)(3) of the Act, the latter provision imposes a heightened burden of proof. *Matter of Arthur*, 20 I&N Dec. 475, 478 (BIA 1992). *See also Pritchett v. I.N.S.*, 993 F.2d 80, 85 (5th Cir. 1993) (acknowledging “clear and convincing evidence” as an “exacting standard”). To demonstrate eligibility under section 204(a)(1)(A)(iii)(I)(aa) of the Act, a petitioner must establish his good-faith entry into the qualifying relationship by a preponderance of the evidence, and any credible evidence shall be considered. Section 204(a)(1)(J) of the Act, 8 U.S.C. § 1154(a)(1)(J); *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). However, to be eligible for the *bona fide* marriage exemption under section 245(e)(3) of the Act, a petitioner must establish good-faith entry into the marriage by clear and convincing evidence. Section 245(e)(3) of the Act, 8 U.S.C. § 1255(e)(3); 8 C.F.R. § 245.1(c)(8)(v). “Clear and convincing evidence” is a more stringent standard. *Arthur*, 20 I&N Dec. at 478.

In his personal declaration, filed in response to the RFE, the Petitioner claimed that he met and began dating T-L-C- in February 2008 and moved into a three-bedroom house with her and her mother at the end of May 2008. He stated that T-L-C-’s mother was the witness at their wedding on [REDACTED], 2008, and that their marriage went well for the first six months. According to the Petitioner, T-L-C- quit her job after the wedding in order to be a housewife and to address health issues resulting from a car accident she suffered in the past. He alleged that T-L-C- was unable to have children and that he agreed she could remain home to manage the household with her mother. The Petitioner indicated that, aside from a short period in 2010, T-L-C- did not work during the time they were married. He recounted that he worked Mondays through Saturdays while T-L-C- and her mother took care of the home, bought groceries, and cooked. According to the Petitioner, he and T-L-C- went out to eat at buffets on weekends and sometimes went to casinos. He stated that, aside from the time he moved out due to a temporary restraining order, he and T-L-C- lived together and slept in the same bed. He claimed that their intimate relationship declined in September 2009 and that they separated in May 2012. The Petitioner further stated that he paid off the mortgage on T-L-C-’s home, bought furniture and appliances for the home and a ring for T-L-C-, covered the household expenses, and provided an allowance to T-L-C- between June 2008 and September 2013. He stated that, when T-L-C- lost her savings and investments in 2008, she began to force the Petitioner to give her more money, and became argumentative and abusive.

The Petitioner’s declaration provided little detail about his relationship with T-L-C- aside from the abuse he allegedly suffered. The Petitioner did not state where he met T-L-C-, how they began dating, or describe any shared experiences during their courtship. He did not discuss his conversations with T-L-C- regarding their decision to get married, nor did he describe their wedding plans, wedding ceremony, or reception or other celebration. Although the Petitioner indicated that he lived with T-L-C- and her mother and was financially responsible for the household expenses while T-L-C- was a housewife, he did not otherwise describe their shared life together as spouses. Additionally, although the Petitioner indicated that he spent significant amounts of money on the mortgage for the house where

(b)(6)

*Matter of L-Z-*

they lived, jewelry for T-L-C-, and other obligations, his financial contributions on their own do not show that he married T-L-C- in good faith. The Petitioner did not discuss his feelings toward T-L-C- in detail, except for his reactions to her allegedly abusive behavior, and he did not provide probative detail about shared experiences with T-L-C- other than the alleged abuse.

Similarly, the two psychological evaluations the Petitioner submitted focused on alleged abuse by T-L-C- and did not include probative details about the Petitioner's first meeting with T-L-C-, his dating relationship with her, their decision to marry, their wedding ceremony or reception, or shared experiences as spouses. Although the Petitioner alleges in his appeal brief that he would not have remained in an abusive relationship with T-L-C- if he did not intend to continue a *bona fide* marriage with her, abuse can occur in types of relationships other than good-faith marriages. Furthermore, as we will discuss below, the evidence does not demonstrate that the Petitioner was battered or subjected to extreme cruelty by T-L-C-.

The additional supporting evidence the Petitioner submitted is also insufficient to demonstrate that he married T-L-C- in good faith. The divorce decree confirms the Petitioner's financial contributions to T-L-C- and that he released T-L-C- from the obligation to repay those amounts upon divorce, but it does not demonstrate his intentions in marrying T-L-C-. The Petitioner also submitted two photographs of a telephone screen listing calls from a person labeled with the nickname the Petitioner used for T-L-C-. The Petitioner alleges that these are records of T-L-C-'s attempts to contact the Petitioner while an order of protection was in effect. However, the photographs do not clearly establish the identity of the caller or recipient, the year of the calls, or the reason for the calls. Additionally, the Petitioner provided ten photographs of him and T-L-C- together. Eight of the photographs show the Petitioner and T-L-C- on the date of their marriage. These support a showing that the Petitioner and T-L-C- were together on their wedding day and participated in a marriage ceremony, but they do not establish the Petitioner's intentions in marriage. The remaining two photographs show that the Petitioner and T-L-C- were together on a single occasion after their wedding, but do not demonstrate that the Petitioner married T-L-C- in good faith.

The Petitioner also provided copies of emails which he alleged he received from T-L-C-. In the emails, T-L-C- expressed her emotions and concerns regarding her relationship with the Petitioner and stated that she wanted to marry him. However, the emails do not include responses from the Petitioner and did not establish the Petitioner's thoughts or intentions in the relationship. Additionally, the first email, dated April 14, 2008, stated that the Petitioner and T-L-C- met each other for the first time three weeks prior and had already discussed marriage. The Petitioner has not described the timeline of his meeting T-L-C-, their dating relationship, and his marriage to T-L-C- or explained why he married T-L-C- so soon after meeting her.

The Petitioner also submitted a letter from a bank to verify that he and T-L-C- had a joint account. However, the letter indicated that, as of February 13, 2014, the account was still open with an active balance. The Petitioner claims that he and T-L-C- were separated on May 15, 2012, and they divorced on [REDACTED], 2014. Therefore, the bank letter does not provide current, relevant information

about the Petitioner's relationship with T-L-C-. Furthermore, the Petitioner did not provide bank statements to establish that the account was used by the Petitioner and T-L-C- during their marriage.

Additionally, the Petitioner provided a renewal notice for a roadside assistance service membership for October 2014 through October 2015, listing the Petitioner as the member and T-L-C- as his "Adult Associate." This renewal notice relates to a time period after the Petitioner and T-L-C- were separated and divorced, and does not establish the Petitioner's intentions in marriage. Furthermore, the renewal notice does not indicate that the Petitioner's "Adult Associate" was required to be his spouse in order to be included in the membership. The renewal notice is not probative evidence that the Petitioner and T-L-C- were in a good faith spousal relationship.

The Petitioner has not established by a preponderance of the evidence that he married T-L-C- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act. He also has not demonstrated by clear and convincing evidence that his marriage was *bona fide*, as required to establish eligibility for the exemption at section 245(e) of the Act. Therefore, approval of his petition is barred by section 204(g) of the Act.

#### IV. BATTERY OR EXTREME CRUELTY

The evidence does not establish by a preponderance of the evidence that the Petitioner was battered or subjected to extreme cruelty by his U.S. citizen spouse. On appeal, the Petitioner contends that his actions during his marriage to T-L-C- were reflective of his status as an abused spouse. He alleges that he provided sufficient evidence that he was battered and subjected to extreme cruelty, and that the Director erred in finding that his marriage was unhealthy but did not amount to an abusive relationship.

In his own declaration, the Petitioner asserted that, after T-L-C- lost her investments in 2008, she began arguing with him and prevented him from sleeping and going to work when he could not provide the money she demanded. Also, the Petitioner stated that, every weekend beginning in March 2009, T-L-C- started arguments with him and would not stop until he admitted responsibility and apologized. He stated that T-L-C- also attempted to prevent the Petitioner from spending time with his son, insulted his son, and refused to socialize with friends or other family members because "she is paranoid and phobic." He indicated that T-L-C- behaved strangely due to a phobia of germs, suffered from insomnia and abused prescription sleeping medications, and told the Petitioner that her behavior could be attributed to abuse she suffered as a child. The Petitioner alleged that T-L-C- was "crazy," and that she screamed at him and at her mother. The Petitioner also stated that he called the police once during his marriage to T-L-C-, in early 2009, when she argued with him and threw cans of food at him, at which time he severely injured his foot, but he then told the police that he did not need them to respond. He further alleged that the neighbors and T-L-C-'s mother called the police on other occasions. The Petitioner claimed that he went to court each time the police were called and that he moved out and stopped communicating with T-L-C- due to the issuance of temporary restraining orders. He also stated that he attended 104 weeks of anger management and domestic violence programs and six weeks of counseling. According to the Petitioner, T-L-C- continued to argue with him during divorce

(b)(6)

*Matter of L-Z-*

proceedings and falsely accused him of domestic violence on [REDACTED] 2014. He stated that, on that date, he did not abuse T-L-C- but she harassed and pressured him in order to force him to consent to her financial demands in their divorce. The Petitioner asserted that T-L-C-'s actions during their marriage, which included "yelling and screaming and fighting and throwing things," isolating him from his son, and abusing her mother in his presence, were caused by her abuse of sleeping medications and her "mental instability."

As supporting evidence on appeal, the Petitioner submits a psychological evaluation from [REDACTED] who states that the Petitioner's marriage with T-L-C- went well for the first six months. [REDACTED] reports that, according to the Petitioner, T-L-C- would not let the Petitioner sleep or go to work until he gave her money, causing the Petitioner to lose his business. Additionally, [REDACTED] indicates that, according to the Petitioner, T-L-C- "would provoke arguments without cause, become verbally aggressive and belligerent and unable to be consoled or de-escalated unless she received her demands in full," and attempted to isolate the Petitioner from his friends and family. [REDACTED] also states that the Petitioner described an argument which became physically abusive in early 2009, when T-L-C- threw cans of food at the Petitioner and caused him to fall and injure his foot. The Petitioner told [REDACTED] that he called the police, but then recanted his report to the police at the request of his mother-in-law. According to [REDACTED] the Petitioner feared T-L-C- and began to have physical symptoms related to his stress. [REDACTED] reports that, according to the Petitioner, T-L-C- falsified injuries so that the Petitioner would be blamed for physical altercations. As a result, according to the Petitioner's report, he was jailed despite not being at fault. [REDACTED] diagnoses the Petitioner with "[p]ost traumatic stress disorder with symptoms of experiencing multiple life threatening events (domestic violence, false incarceration and explicit threat to life while incarcerated), intense fear, helplessness, distressing dreams, intense psychological distress, and reliving the experience." [REDACTED] states that the Petitioner's responses were consistent with those of an abuse victim, and that it is common for abused men to be wrongly accused of being the abuser.

The Petitioner also submitted a psychological evaluation in response to the RFE. In that evaluation, [REDACTED] stated that the Petitioner reported that he married T-L-C- in 2008 and that they were "very happy in the beginning of the marriage" until T-L-C- began to subject the Petitioner to emotional abuse. According to [REDACTED] T-L-C- "seems to suffer some emotional problems" and screams at the Petitioner for no reason, calls him names and insults him, pressures him regarding financial issues, engages in obsessive-compulsive behaviors, has a phobia of germs, and sleepwalks. The Petitioner told [REDACTED] that T-L-C- had a family history of emotional difficulties, was abused by her father, mistreated her mother, and refused mental health treatment. [REDACTED] also stated that, according to the Petitioner, T-L-C- argued with the Petitioner and discouraged him from seeing his son. [REDACTED] also reported that, according to the Petitioner, T-L-C- prevented him from leaving the house during arguments and frequently changed the locks on the doors following arguments so that he could not reenter after leaving. [REDACTED] diagnosed the Petitioner with severe depression due to severe mental abuse by T-L-C-.

The Petitioner claims that T-L-C- suffers from mental illness, which caused her to be argumentative and demanding toward the Petitioner. Although abusive actions related to mental illness may constitute

(b)(6)

*Matter of L-Z-*

battery or extreme cruelty in certain situations, the Petitioner has not offered any probative evidence regarding T-L-C-'s mental health, other than his own assertions, and, regardless, the evidence does not show that any mental illness on the part of T-L-C- resulted in battery or extreme cruelty against the Petitioner. The Petitioner's descriptions of abuse by T-L-C- were vague, and he mentioned only one specific incident in which T-L-C- threw cans at him. Although the Petitioner alleged that he was injured in that incident, he did not provide medical records to support his claim. Additionally, he stated that his injury occurred when he stepped on a can and fell, and he did not allege that T-L-C- hit the Petitioner with a can or directly caused injury to him. Furthermore, this was an isolated incident and the evidence does not support a finding that it amounted to an act of violence as defined in 8 C.F.R. § 204.2(c)(1)(i)(vi). Aside from this incident, the Petitioner did not discuss in detail any specific occurrences of alleged battery or extreme cruelty, and he attributes T-L-C-'s actions to her phobias, family history of abuse, misuse of medications, and mental illness.

Similarly, the psychological evaluations indicate that, according to information provided by the Petitioner, T-L-C- was argumentative and demanding, refused to socialize, and engaged in behaviors indicative of phobias and mental illness. [REDACTED] describes only one specific instance of claimed abuse, in which T-L-C- allegedly threw cans of food at the Petitioner, causing him to trip and fall. [REDACTED] also mentions three specific dates on which the police were called, but [REDACTED] does not provide detail regarding any of those incidents, and other documentation in the record indicates that, in relation to two of the specified dates, orders of protection were entered against the Petitioner, not T-L-C-. Although the police may incorrectly assume that the male member of a relationship is the abuser in certain cases, the evidence does not show that to be the case here. [REDACTED] other descriptions of abusive incidents are generalized and vague. Similarly, [REDACTED] evaluation provided only generalized examples of abuse the Petitioner allegedly suffered, such as being yelled at, insulted, prevented from leaving the house, being locked out, and being separated from his son, but [REDACTED] did not provide dates of the alleged events or concrete details about specific abusive incidents. Therefore, the evidence does not indicate that T-L-C- engaged in violent acts or a pattern of violence which would amount to acts constituting battery or extreme cruelty as described in 8 C.F.R. § 204.2(c)(1)(vi).

Additionally, the evidence of record indicates that the Petitioner was charged with domestic violence and ordered to complete anger management and domestic violence treatment programs on more than one occasion. Although the Petitioner claims that T-L-C- falsely accused him of abuse, that T-L-C-'s mother pressured him to recant his allegations against T-L-C-, and that the police incorrectly assumed he was the abuser because he is a man, the record does not contain evidence to support these claims. On [REDACTED], 2008, the Petitioner was charged with domestic violence willful infliction of corporal injury in violation of Cal. Penal Code § 273.5(a). The Superior Court of California ordered the Petitioner not to harass, molest, or annoy the victim, and to complete a 52-week domestic violence program. On [REDACTED] 2009, the court ordered the Petitioner to complete 26 weeks of domestic violence sessions. On [REDACTED] 2009, the court dismissed the charges in furtherance of justice pursuant to Cal. Penal Code § 1385. On [REDACTED] 2011, the Petitioner was charged with domestic violence battery in violation of Cal. Penal Code § 243(e)(1). The court ordered the Petitioner to stay away from T-L-C- and issued a protective order against him. On [REDACTED] 2011, the court ordered the Petitioner to complete a 26-week anger management program, and on [REDACTED] 2012, the

(b)(6)

*Matter of L-Z-*

court renewed the order of protection and ordered the Petitioner to complete a 52-week domestic violence program. On [REDACTED], 2012, the complaint was amended to add a charge of assault in violation of Cal. Penal Code § 240. The domestic battery charge was dismissed in furtherance of justice and the Petitioner was convicted of assault. He was sentenced to three years of probation and two days in jail, with credit for time served, was ordered to pay restitution, and was again ordered to enroll in a 52-week domestic violence treatment program, with credit for 21 sessions completed. On [REDACTED] 2012, the Petitioner was charged with domestic violence willful infliction of corporal injury in violation of Cal. Penal Code § 273.5(a). The charge was dismissed in furtherance of justice on [REDACTED] 2012. Although the Petitioner was convicted of one charge and the remaining charges against him were dismissed, the record does not contain probative evidence that the charges against him were false or were the result of abuse by T-L-C-.

Therefore, the preponderance of the relevant evidence does not demonstrate that the Petitioner was battered or subjected to extreme cruelty as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

#### V. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence or by clear and convincing evidence that he married T-L-C- in good faith, so he has not met the requirements of section 204(a)(1)(A)(iii)(I)(aa) of the Act and approval of his petition is barred by section 204(g) of the Act. Furthermore, the evidence does not establish that the Petitioner was battered or subjected to extreme cruelty by T-L-C- during their marriage. Therefore, 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 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. Here, the Petitioner has not met that burden. Accordingly, the appeal is dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of L-Z-*, ID# 14791 (AAO Nov. 24, 2015)