



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

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

MATTER OF R-S-

DATE: OCT. 14, 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* section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 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 petition based on a finding that the Petitioner did not establish that he is eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act based on a qualifying spousal relationship with a U.S. citizen, was battered or subjected to extreme cruelty by his U.S. citizen spouse, and married his U.S. citizen spouse in good faith. Additionally, the Director concluded that the petition was barred under section 204(g) of the Act because the Petitioner married his U.S. citizen spouse while in removal proceedings and had not demonstrated eligibility for the *bona fide* marriage exemption at section 245(e) of the Act. The Petitioner timely appealed.

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
.....

II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner last entered the United States on March 23, 2007 as a C-1 nonimmigrant in transit. He was placed into removal proceedings on October 23, 2007. An Immigration Judge ordered the Petitioner removed in an order dated September 2, 2008 and the Board of Immigration Appeals dismissed his appeal on October 12, 2010. The Petitioner married R-K-,¹ a U.S. citizen, on [REDACTED] 2011 in [REDACTED], California. Although the Petitioner claims to be divorced from R-K-, the date of their divorce is not clear from the record; he submitted court documentation indicating that the divorce proceedings were pending as of [REDACTED] 2014. The Petitioner filed the Form I-360 on July 25, 2014. The Director issued a request for evidence (RFE) that the Petitioner resided with R-K- during their marriage, married R-K- in good faith, and was subjected to battery or extreme cruelty. Additionally, the Director noted that the Petitioner was subject to the bar at section 204(g) of the Act because he married R-K- while in removal proceedings. The Director indicated that, to establish eligibility for an exemption to the bar, the Petitioner must establish by clear and convincing evidence that his marriage was *bona fide*. The Petitioner responded with new evidence and copies of previously submitted evidence. The Director found the evidence insufficient to establish that the Petitioner had married R-K- in good faith and was subjected to battery or extreme cruelty, and concluded that the Petitioner did not establish by clear and convincing evidence that his marriage to R-K- was *bona fide*.

We review these proceedings *de novo*. The evidence submitted below and on appeal does not overcome the Director's decision to deny the petition. Therefore, we will dismiss the appeal.

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 R-K- 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 section 204(g) of the Act is inapplicable to his case because he married R-K- more than two years ago. He also claims that he submitted sufficient evidence to establish by a preponderance of the evidence that he married R-K- in good faith. He emphasizes that the preponderance of the evidence standard is lower than the clear and convincing evidence standard. The Petitioner misinterprets the law. The bar at section 204(g) of the Act applies to marriages that occurred while a petitioner was in removal proceedings, even if more than two years have passed since the date of the marriage, unless the petitioner resided outside the United States for two years following the marriage. The Petitioner does not argue, and the record does not show, that he resided outside the United States for a period of two years after marrying R-K-. Therefore, he is subject to the bar at section 204(g) of the Act and must establish eligibility for the *bona fide* marriage exemption at section 245(e) of the Act to demonstrate eligibility for immediate relative classification.

¹ Name withheld to protect the individual's identity.

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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 his 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 written request for a *bona fide* marriage exemption, dated December 15, 2014, the Petitioner stated that he married R-K- “after meeting her many times.” He stated that he and R-K- belong to the same religion and culture and that he loved her. In an undated statement submitted with the Form I-360, the Petitioner claimed that he first met R-K- at [REDACTED] and then met with her “many times.” According to the Petitioner, R-K- divorced her first spouse “sometime later,” and the Petitioner and R-K- then married. In another undated statement, also submitted with the Form I-360, the Petitioner again alleged that he met R-K- at [REDACTED] and met with her “many times.” He claimed, “We talk[ed] a lot. She said she liked me. She also told me that she had trouble with her husband and she will get divorce[d]. After some time she got divorce[d]. I also liked her. We discussed about our marriage and she agreed.” According to the Petitioner, he and R-K- and her two children began living together after they got married, and the relationship went well at first. He indicated that he loved R-K-’s children and that he and R-K- had fun together until she became abusive. The Petitioner’s statements are vague and generalized, and are insufficient to establish that he married R-K- in good faith. He did not elaborate on his statement that he met with R-K- “many times.” None of the Petitioner’s statements provide any detail about the date of his first meeting with R-K-, their courtship, the period of time between their first meeting and their decision to marry, their activities while dating, discussions leading to the decision to marry, wedding plans, wedding ceremony, or reception, or their marital relationship aside from instances of alleged abuse.

Similarly, the supporting statements from friends discuss the Petitioner’s marriage to R-K- in general terms. [REDACTED] stated, in a statement submitted in response to the RFE, that he was present at the marriage between the Petitioner and R-K-. [REDACTED] further claimed that the Petitioner told him that he loved R-K- and “met her many times before entering in to his bonafide [*sic*] marriage relationship.” In a nearly identical statement, [REDACTED] made the same assertions. On appeal, the Petitioner submits updated versions of the statements by both [REDACTED] and [REDACTED] but the portions of those statements that relate to the Petitioner’s *bona fide* marriage remain identical to one another and to the previous versions submitted in response to the RFE. Neither statement provides any detail regarding the Petitioner’s courtship with R-K-, an explanation of the statement that he met with her “many times,” information regarding his decision to marry or announcement of that decision to his friends, or his wedding ceremony or reception, despite claims by both [REDACTED] and [REDACTED]

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█ that they attended the event. Furthermore, because the statements are nearly identical, we give them little evidentiary weight.

As additional evidence relating to his marriage, the Petitioner previously submitted, with the Form I-360, one photograph of himself with R-K- and copies of several bank statements addressed to the Petitioner and R-K-. In response to the RFE, the Petitioner submitted an approval notice for Medical eligibility, addressed to R-K- and listing her children and the Petitioner as recipients. The Medical eligibility notice is dated September 29, 2014, but the Petitioner submitted court documentation indicating that his divorce was pending as of May 29, 2014. The Petitioner has not explained why R-K- would obtain █ benefits for him after divorce proceedings began. The Petitioner also submitted photographs of the Petitioner with R-K- and her children; an income tax return for 2012 listing the Petitioner and R-K- as “Married filing jointly”; and a Tax Return Comparison document listing income for 2011 and 2012. On appeal, the Petitioner submits a copy of his application for an Indian passport, on which he lists R-K- as his spouse and emergency contact, and Tax Return Transcripts from the Internal Revenue Service, indicating that the Petitioner and R-K- filed tax returns bearing both of their names in 2012 and 2013. This evidence demonstrates that the Petitioner and R-K- were listed as spouses on certain documents, and that they shared a mailing address. However, the documents do not establish the Petitioner’s intentions in marriage or prove that he and R-K- resided together in a *bona fide* marital relationship. The evidence is not sufficient to establish by a preponderance of the evidence that the Petitioner married R-K- in good faith, or by clear and convincing evidence that his marriage is *bona fide*.

The Petitioner also submits on appeal documentation of supervision of the Petitioner by Immigration and Customs Enforcement (ICE). The Petitioner asserts that these documents show that U.S. Citizenship and Immigration Services (USCIS) has conducted regular visits to the Petitioner’s home and that USCIS officials have always encountered the Petitioner at home with R-K-. He therefore argues that USCIS officials have witnessed the Petitioner’s shared marital home with R-K-. However, the supervision documentation the Petitioner submitted demonstrates that ICE, not USCIS, manages the supervision of the Petitioner. Additionally, although the documentation indicates that home visits may occur, it is not clear that home visits have occurred or that R-K- was present for any home visits. Furthermore, the documentation lists five “Personal Contacts” for the Petitioner, and neither R-K- nor █ or █ are included.

The Petitioner also submits a copy of a Form I-130, Petition for Alien Relative, R-K- filed on the Petitioner’s behalf, as well as a request for *bona fide* marriage exemption signed by R-K- on February 2, 2012 in relation to the Form I-130. The request for an exemption is very general and merely states that “this marriage is not being entered to evade any Immigration laws but is the outcome of a bonafide [*sic*] relationship as wife and husband out of love and affection and true relationship” but does not contain any details regarding the claimed marital relationship sufficient to merit an exemption. On appeal, the Petitioner argues that the Form I-130 and request for *bona fide* marriage exemption demonstrate that the Petitioner and R-K- entered into a good-faith marriage.

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However, R-K-'s unsupported assertions in relation to the Form I-130 that the marriage was *bona fide* are not sufficient, on their own, to meet the requirements of section 204(a)(1)(A)(iii)(I)(aa) or section 245(e) of the Act. The Form I-130 R-K- filed on the Petitioner's behalf has not been adjudicated. Furthermore, even if the Form I-130 were approved, the regulation at 8 C.F.R. § 245.1(c)(8)(v) prescribes that when a visa petition based on the same marriage is approved, it will generally be considered primary evidence of eligibility for the *bona fide* marriage exemption unless USCIS determines additional evidence is needed. The fact that a visa petition based on the marriage in question was previously approved does not automatically entitle the beneficiary to subsequent immigrant status. See *I.N.S. v. Chadha*, 462 U.S. 919, 937 (1983); *Agyeman v. I.N.S.*, 296 F.3d 871, 879 n.2 (9th Cir. 2002) (in subsequent proceedings, "the approved petition might not *standing alone* prove . . . that the marriage was *bona fide* and not entered into to evade immigration laws."). Moreover, although similar, the parties, statutory provisions and benefits procured through sections 204(a)(1)(A)(i) (Form I-130) and 204(a)(1)(A)(iii) (Form I-360) of the Act are not identical. The Petitioner's spouse was the petitioner and bore the burden of proof in the Form I-130 adjudication. Section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i); 8 C.F.R. §§ 204.1(f), 204.2(a)(2). In contrast, in this case, the Petitioner bears the burden of proof to establish not only the validity of the marriage, but also that he entered the marriage in good faith by clear and convincing evidence, a heightened standard of proof. Section 204(a)(1)(A)(iii)(I) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(I); 8 C.F.R. § 204.2(c)(1)(iv).

The Petitioner has not established by a preponderance of the evidence that he married R-K- 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 argues that the Director ignored the evidence of the abuse he suffered at the hands of R-K-.

In a statement submitted with the Form I-360, the Petitioner claimed that R-K- held him responsible for the household cooking and cleaning and expected him to take care of her children from a prior marriage. He also stated that R-K- argued with him, complained about his household work, called him names, did not give him any money, slapped him, and threatened to beat him or to have him deported. The Petitioner also alleged that R-K- had an affair with her ex-husband in the home she and the Petitioner shared and demanded that the Petitioner care for her children while her ex-husband was visiting. According to the Petitioner, he once confronted R-K- when he found her with her ex-husband, and R-K- responded by hitting the Petitioner on the head with a glass beer bottle and throwing the Petitioner out of the house. The Petitioner stated that he was bleeding and waited outside until R-K-'s ex-husband left. He also alleged that R-K- refused to attend the interview relating to the Form I-130 she filed on his behalf, and that she once slapped him and called him names at the [REDACTED] in front of

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other people. In an additional statement submitted with the Form I-360, the Petitioner again asserted that R-K- argued with him, required him to do all the cooking, housework, and childcare, threatened him, and had an affair. The Petitioner also claimed that R-K- beat him “many times,” and hit him on the head with a glass bottle in an incident which “left a scar on [his] mind.” The Petitioner also stated, in his written request for a *bona fide* marriage exemption, that he “suffered extreme form of physical and mental torture” during his marriage and that he “was living the life of a slave.” The Petitioner’s statements are vague and provide insufficient detail about any specific incidents of abuse he allegedly suffered. The Petitioner has not provided the date of any incident of abuse or details regarding the extent of any injuries he incurred. Additionally, he mostly describes marital discord, disagreements, and infidelity by R-K- rather than incidents of battery or extreme cruelty. The Petitioner does not offer any significant details regarding violent incidents or a pattern of violence amounting to battery or extreme cruelty as described in the regulation at 8 C.F.R. § 204.2(c)(1)(vi).

As support for his claims of battery or extreme cruelty, the Petitioner submitted with his RFE response two photographs showing a scar on his forehead, which he claimed resulted from the incident in which R-K- hit him with a beer bottle. However, he did not submit documentation to prove that the scar resulted from an incident of abuse. Instead, he submitted a list of his visits to a chiropractor in July and August 2014, which he claimed were for treatment of a back injury he sustained during his marriage. He also submitted two handwritten receipts, dated September 15, 2014, which the Petitioner claimed were from a visit to [REDACTED] for treatment of “severe fever and flu after separation from [R-K-].” In his brief on appeal, the Petitioner asserts that his medical records do not mention abuse as the reason for his visits because the Petitioner still loved R-K- and did not want to tell his doctor that R-K- was abusive. However, the Petitioner did not provide a detailed description of the incident in which he claimed R-K- hit him with a beer bottle, such as the date of the incident, the severity of his resulting injury, or whether he required medical attention, nor did he submit any evidence linking the photographs of the scar on his forehead to his medical documentation. The evidence of record does not establish that the scar on the Petitioner’s forehead resulted from being hit with a beer bottle by R-K-. Additionally, although he claims that he sought treatment by [REDACTED] for “fever and flu” he suffered after separating from R-K-, the receipts he submitted are not clearly marked as issued by [REDACTED] nor do they indicate the reason for the Petitioner’s visit or state that his symptoms were connected to his relationship with R-K-.

The Petitioner also submits on appeal updated versions of previously submitted statements from [REDACTED]. As previously discussed, these statements are nearly identical to one another. Both statements indicate that the Petitioner told his friends that R-K- was “treating him as a slave and has been controlling his life . . . , [was] doing adultery with her ex-husband . . . [and that the Petitioner] suffered physical violence many times during his marriage.” The statements differ only in a single paragraph discussing specific incidents of alleged abuse, and they were updated to provide the dates and times of the alleged incidents. In his updated statement, [REDACTED] states that, on January 10, 2014, he visited the Petitioner and found that the Petitioner was suffering an anxiety attack because R-K- had “gone with his [*sic*] ex[-]husband for dating” and became “extremely violent” when the Petitioner opposed her. [REDACTED] states that, on February 15, 2014, he visited the Petitioner and “saw [R-K-] in a compromising position with her ex-husband” while the Petitioner cried on the sofa. According to

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██████████ R-K- yelled at ██████████ and told him to leave because the Petitioner did not have “rights to meet any person without her permission.” The statements from ██████████ and ██████████ discuss allegations of abuse of the Petitioner in general terms. Additionally, because the statements are almost identical, they hold little evidentiary weight. These statements are not sufficient to support the Petitioner’s claim of battery or extreme cruelty.

Additionally, the Petitioner submits on appeal a psychological evaluation by ██████████ ██████████ ██████████ states that, according to the Petitioner, R-K- refused to attend his asylum hearing, threatened him with deportation, did not give him any money, isolated him from others, had extramarital affairs in their home, beat him, screamed at him, and told him to care for her children and complete household chores. ██████████ indicates that the Petitioner suffers from depression, anxiety, and posttraumatic stress disorder as a result of his relationship with R-K-. Like the other evidence of record, ██████████ evaluation discusses the abuse the Petitioner allegedly suffered only in vague terms. ██████████ does not describe in detail any particular incident of abuse, and her evaluation is insufficient to demonstrate that the Petitioner was subjected to acts constituting battery or extreme cruelty as described in 8 C.F.R. § 204.2(c)(1)(vi).

V. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence or by clear and convincing evidence that he married R-K- in good faith, so he has not met the requirements of section 204(a)(1)(A)(iii)(I)(aa) of the Act and 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 R-K- during his 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 R-S-*, ID# 13876 (AAO Oct. 14, 2015)