



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

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

MATTER OF L-G-

DATE: JUNE 2, 2016

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) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner had not established that her spouse subjected her to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner claims that she has established, through documentary evidence, that she was subjected to battery and extreme cruelty.

Upon *de novo* review, we will dismiss the appeal.

#### I. APPLICABLE LAW

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.

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 explicated in the regulation at 8 C.F.R. § 204.2(c)(1), which states, in pertinent part:

(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.

....

The evidentiary guidelines 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[.]

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## II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner is a citizen of Guyana, who last entered the United States with a B-2 nonimmigrant visa. She married A-G-<sup>1</sup> a U.S. citizen and later filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. As the initial record was insufficient to establish the Petitioner's eligibility, the Director issued a request for evidence (RFE) for the requisite battery or extreme cruelty. The Petitioner timely responded to the RFE with additional evidence, which the Director found insufficient to establish the Petitioner's eligibility. The Director denied the petition and the Petitioner timely appealed.

## III. ANALYSIS

We find no error in the Director's determination that the Petitioner's spouse did not subject her to battery or extreme cruelty and the evidence submitted on appeal does not overcome this ground for denial. The Petitioner submitted below a personal statement, a letter from [REDACTED] and a letter from Licensed Master Social Worker, [REDACTED]

In her initial statement, the Petitioner briefly recounted that she met A-G- while he was handing out business cards for the hair salon where he worked. She recounted that she became a customer at the hair salon and that they began to talk. She recalled that they started a relationship and they later wed. She recounted that their problems began after she opened a letter from an insurance company denying coverage to A-G- because he tested positive for cocaine. The Petitioner recalled that when she confronted A-G- about his drug use, he became upset and that subsequent to this incident, A-G-'s behavior towards her changed. She recalled that A-G- insulted her and started to treat her as if he did not trust her. She recalled that he began to monitor her phone calls and he accused her of lying to him. The Petitioner recounted that A-G- controlled the families' finances and that he would not give her any money. She further recounted that when he became angry, he would hit the wall and bang on the table. She recalled that once they ran out of bar soap for the bathroom, A-G- became upset, yelled at her, and tore one of her books in anger. The Petitioner recalled that A-G- tried to sabotage her immigration status by being uncooperative during her first immigration interview and refusing to attend the second interview. The Petitioner did not further describe these acts or other specific acts in probative detail or otherwise demonstrate that she was subjected to ongoing intimidation, coercion, duress, threats or acts of violence during the marriage.

In his letter, [REDACTED] stated that the Petitioner was an active member of his church congregation for years. He stated that the Petitioner confided in him about the abuse in her relationship with A-G- but did not describe any specific incidents of battery or extreme cruelty. In her letter, social worker [REDACTED] summarized what the Petitioner stated during their counseling sessions regarding the claimed verbal, emotional, and financial abuse that the Petitioner was subjected to by A-G-. [REDACTED] did not, however, provide additional, probative details regarding specific incidents of abuse. In response to the RFE, the Petitioner submitted a second letter from [REDACTED]

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

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█ In her updated letter, █ stated that the Petitioner reported that A-G- was verbally, emotionally, and financially abusive towards her. Again, █ did not describe any specific incidents of battery or extreme cruelty nor did she provide probative information of the alleged abuse sufficient to support the Petitioner's claims. While we do not question █ professional expertise, her letter did not provide additional, probative details regarding specific incidents of abuse to indicate that A-G- ever battered the Petitioner or that A-G-'s behavior involved threatened violence, psychological or sexual abuse, or otherwise constituted extreme cruelty, as that term is defined at 8 C.F.R. § 204.2(c)(1)(vi).

On appeal, the Petitioner asserts that we failed to consider the record as a whole in making our determination on battery and extreme cruelty. She further asserts that A-G-'s verbal, emotional, and financial abuse amounts to extreme cruelty. To strengthen her claim of abuse, the Petitioner provides a supplemental personal statement and a second letter from █. In her supplemental statement, the Petitioner reiterates that A-G- was very controlling and that she was afraid of him. She states that A-G- inflicted emotional and mental abuses on her. She recounts that she had sex with A-G- because she was afraid of him and wanted to do everything to please him. The Petitioner did not further describe these incidents or provide substantive information about any other specific incident of abuse, which constituted extreme cruelty, as that term is defined at 8 C.F.R. § 204.2(c)(1)(vi). In his supplemental statement, █ clarifies the statements made in his earlier letter. He states that the Petitioner told him that whenever A-G- wanted to have sex, she complied for fear that the verbal, mental, and emotional abuse that she suffered would escalate. In his statement, █ reiterates what the Petitioner told him, but he does not further provide substantive details of any specific incident of battery or extreme cruelty. Accordingly, the Petitioner has not established that A-G- subjected her to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

#### IV. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of L-G-*, ID# 16851 (AAO June 2, 2016)