



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

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

In Re: 22457172

Date: AUG. 29, 2022

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), and we summarily dismissed her subsequent appeal. The summary dismissal decision is now before us on a motion to reopen and motion to reconsider. Upon review, we will dismiss the motions to reopen and reconsider.

## I. LAW

A motion to reopen must state new facts to be proved and be supported by affidavits or other evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must demonstrate that our most recent decision misapplied law or U.S. Citizenship and Immigration Services (USCIS) policy based on the record at the time the decision was issued. 8 C.F.R. § 103.5(a)(3). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v). The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

## II. ANALYSIS

The Petitioner filed a VAWA petition in February 2018, which was denied by the Director in September 2021. The Petitioner timely appealed the adverse decision to our office in October 2021 by filing a Form I-290B, Notice of Appeal or Motion. The Petitioner indicated on the Form I-290B that he would submit his “brief and/or additional evidence . . . within 30 calendar days of filing the appeal.” We summarily dismissed the Petitioner’s appeal in February 2022, as the Petitioner did not identify any errors in the Director’s decision on his Form I-290B or submit a brief, additional evidence, or any correspondence.

On instant motion, the Petitioner provides evidence that relates to the Director's findings that he did not establish that he married his spouse in good faith or resided with her. Rather than determining whether the Petitioner is eligible, *prima facie* or otherwise, for VAWA classification; we are considering whether the Petitioner has established that our prior decision summarily dismissing his appeal was improper, or that there are new facts or evidence that would warrant reopening of these proceedings. The Petitioner does not address, present documentation relating to, or otherwise make any assertions regarding our summary dismissal of his appeal. The Petitioner has not demonstrated that our prior decision was made in error or that reopening of these proceedings is warranted. Therefore, the Petitioner's appeal remains summarily dismissed, and his underlying VAWA petition remains denied.

**ORDER:**       The motion to reopen is dismissed.

**FURTHER ORDER:**       The motion to reconsider is dismissed.