



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

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

In Re: 26009402

Date: APR. 4, 2023

**Motion on Administrative Appeals Office Decision**

**Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)**

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 of the Vermont Service Center denied the petition, concluding that the record did not establish that the Petitioner resided with his U.S. citizen spouse and entered into the marriage in good faith. We dismissed the Petitioner's subsequent appeal, and the matter is now before us on a combined motion to reopen and motion to reconsider. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that our decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). We must dismiss a motion that does not satisfy the applicable requirements. 8 C.F.R. § 103.5(a)(4).

On motion, the Petitioner states that a paralegal who prepared his case "completely disregarded [the] facts and presented them inaccurately to USCIS." Accordingly, he intends to file a grievance against the paralegal and requests time to do so. He also states that he will submit a brief within 30 days of filing the motion.

Although the Petitioner indicates that there were inaccuracies in his VAWA petition, he does not explain what they were or provide any further evidence or argument. We acknowledge his assertion that he plans to file a grievance against a paralegal who helped prepare his case, but there is no evidence that he has actually done so, nor does he allege that he meets the requirements for a claim of ineffective assistance under *Matter of Lozada*, 19 I&N Dec 637 (BIA 1988). Furthermore, the record reflects that the Petitioner filed his VAWA petition and subsequent appeal on his own, without

representation by an attorney or accredited representative. He did not indicate on either his VAWA petition or his Form I-290B, Notice of Appeal or Motion, that they were prepared by another person.

Finally, despite the Petitioner's assertion that he intends to file a brief within 30 days, the filing requirements for motions specify that a brief and any additional evidence must be filed concurrently with the Form I-290B. *Instructions for Notice of Appeal or Motion* 6 (Dec. 2, 2019), <https://www.uscis.gov/sites/default/files/document/forms/i-290binstr.pdf> ("For motions, you must file any brief and/or additional evidence together with Form I-290B"). Form instructions carry the weight of binding regulations. 8 C.F.R. § 103.2(a)(1) ("Every form, benefit request, or document must be submitted . . . and executed in accordance with the form instructions . . . . The form's instructions are hereby incorporated into the regulations requiring its submission.")

The Petitioner's motion does not state new facts which are supported by affidavits or other documentary evidence, as required for a motion to reopen under 8 C.F.R. § 103.5(a)(2). Also, it does not establish that the decision was based on an incorrect application of law or policy and was incorrect based on the evidence in the record at the time of the decision, as 8 C.F.R. § 103.5(a)(3) requires. The Petitioner has not followed the motion filing instructions or provided evidence or argument in support of his claims. Accordingly, we must dismiss the motions.

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

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