



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

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

In Re: 24645570

Date: FEB. 23, 2023

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 at 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 of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish that she was battered or subjected to extreme cruelty by her spouse.<sup>1</sup> We dismissed a subsequent appeal, and the matter is now before us on a motion to reopen and reconsider. Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2).<sup>2</sup> A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. *Id.* at § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

In our prior decision, incorporated here by reference, we determined that the Director properly considered the evidence submitted by the Petitioner related to her claim that she was battered or subjected to extreme cruelty by her spouse. We further determined that the Petitioner had not provided new evidence on appeal to overcome the Director's finding.

On motion, the Petitioner contends that the Director did not properly assess the evidence, particularly evidence of economic abuse, threats relating to her immigration status, and how her cultural background played a part in her spouse's ability to continue his abuse.<sup>3</sup>

Contrary to the Petitioner's contention, in our prior decision, we noted that the Director's decision thoroughly discussed the relevant evidence submitted by the Petitioner – including her statements, her

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<sup>1</sup> A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act.

<sup>2</sup> We note here that the Petitioner did not submit new evidence.

<sup>3</sup> In a May 2021 psychological evaluation, the psychologist opines that, "[i]n the context of her cultural background, [the Petitioner] has always had a passive subservient personality style which made her an easy target and vulnerable to being misused."

friend's statement, psychological evaluations, and text messages – and addressed the psychological and financial harm described by the Petitioner, including threats to her immigration status. With respect to economic harm, the Director noted that the Petitioner's claim that her spouse "constantly put her account in overdraft" status, was not supported by the submitted bank documentation. The Director further noted that it was unclear from the bank documentation whether more than one person was using the account.

Here, the Petitioner has not provided new evidence on motion to overcome our prior determination. Further, she has not established that our determination regarding the insufficiency of evidence of battery or extreme cruelty was based on an incorrect application of law or policy. Accordingly, the motion to reopen and reconsider is dismissed and the VAWA petition remains denied.

ORDER:       The motion to reopen is dismissed.

FURTHER ORDER:       The motion to reconsider is dismissed.