



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 23862875

Date: JAN. 04, 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 he was battered or subjected to extreme cruelty by his spouse.¹ 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). 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 agreed with the Director's determination that while the Petitioner may have been in an unhealthy marital relationship, his statement lacked sufficient details of battery or extreme cruelty. Further, we determined that although the Petitioner asserted that he suffered from several medical conditions that were the direct result of his former spouse's psychological abuse, he did not provide documentary evidence demonstrating that his medical issues are related to or resulting from being battered or subjected to extreme cruelty in his marriage.

On motion, the Petitioner reasserts that he is eligible for immigrant classification under the VAWA and submits documentation relating to his mental health status, including a letter from his therapist indicating that he has been diagnosed with major depressive disorder, generalized anxiety disorder, and post-traumatic stress disorder (PTSD).

¹ 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.

We acknowledge the evidence in the record indicating that the Petitioner suffers from depression, anxiety, and PTSD, and that the record reflects that the Petitioner has faced difficult personal circumstances related to the breakdown of his marriage. However, the Petitioner has not provided sufficient new evidence on motion to overcome our prior determination that he has not established by a preponderance of the evidence that he was battered or subjected to extreme cruelty. Further, he does not contend 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.