



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

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

In Re: 23671910

Date: JAN. 4, 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 had been subjected to battery or extreme cruelty, as required under the Act. We dismissed the Petitioner's appeal and five subsequent motions to reopen and reconsider. The matter is now before us on a sixth motion to reopen and reconsider.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

Our five prior decisions thoroughly described the facts and procedural history of this case, which we again incorporate here.¹ The Petitioner's evidence and arguments on sixth motion do not meet the requirements for a motion to reconsider. Specifically, they do not establish that our prior decision was based on an incorrect application of law or USCIS policy, or that our decision was incorrect based on the evidence in the record of proceedings at the time of the decision.² The Petitioner's evidence and arguments on sixth motion also do not meet the requirements for a motion to reopen as they do not state new facts supported by affidavits or other evidence.³ Consequently, the Petitioner has not met

¹ As discussed in our prior decisions, 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. 8 C.F.R. § 103.5(a)(3). Additionally, 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). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

² The Petitioner argues that the "June 7 [d]enial's error of law [wa]s its conclusion that [his] submission d[id] not meet the requirements of a motion to reconsider."

³ The Petitioner resubmits copies of a Mexican marriage certificate with an English translation and his counsel's brief in response to the Director's March 2015 denial— evidence and arguments that we previously considered in our prior decisions.

the requirements for a motion to reopen and reconsider, as specified in 8 C.F.R. §§ 103.5(a)(2) and (3), and the VAWA petition will remain denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.