



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

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

In Re: 26925863

Date: JUN. 2, 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. *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 Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish he was battered or subjected to extreme cruelty by his spouse. We dismissed a subsequent appeal and then combined motions to reopen and reconsider. The matter is again before us on combined motions to reopen and 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 documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior 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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner submits a statement with similar claims of abuse as in his prior statements, one prescription receipt for an antidepressant, a physician's letter, and previously submitted medical and counseling records. The Petitioner's physician states the Petitioner is being treated for major depressive disorder, generalized anxiety disorder, and post-traumatic stress disorder (PTSD). In our latest decision, we acknowledged evidence in the record indicating that the Petitioner suffers from depression, anxiety, and PTSD, and that the record reflects that he has faced difficult personal circumstances related to the breakdown of his marriage. Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our

prior decision. Furthermore, the Petitioner has not provided any legal authority in support of his motion to reconsider. As such, he has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the underlying VAWA petition remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.