



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

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

MATTER OF E-B-M-

DATE: DEC. 4, 2015

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Acting Director, Vermont Service Center, denied the petition and we summarily dismissed a subsequent appeal. The matter is now before us on a motion to reopen and a motion to reconsider. The motions will be denied.

The Director denied the petition because the Petitioner's convictions demonstrated that she lacked good moral character and thus was not eligible for immigrant classification under section 204(a)(1)(A)(iii) of the Act. We summarily dismissed the appeal on May 15, 2015.

A motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

Here, the Petitioner resubmitted her previously filed evidence in support of her motion to reopen. She has not asserted any new facts to be proved in the reopened proceeding and has not submitted any additional evidence in support of the merits of her Form I-360. Accordingly, her submission does not meet the requirements of a motion to reopen under 8 C.F.R. § 103.5(a)(2). The Petitioner's submission also does not meet the requirements of a motion to reconsider. The Petitioner submits a statement requesting that we reopen and reconsider her case based on her prior documentation. However, she does not discuss the basis of the Director's denial or assert that the prior decision incorrectly applied the pertinent law or agency policy. Nor does she assert that the prior decision was erroneous based on the evidence of record at the time of the initial decision. Consequently, the motion to reopen and motion to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4).

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The Petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met.

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

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

Cite as *Matter of E-B-M-*, ID# 14667 (AAO Dec. 4, 2015)