



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

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

MATTER OF N-R-

DATE: NOV. 2, 2015

MOTION OF 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 lawful permanent resident of the United States. *See* Immigration and Nationality Act (the Act) § 204(a)(1)(B)(ii)(I), 8 U.S.C. § 1154(a)(1)(B)(ii)(I). The Director, Vermont Service Center (Director), initially approved the petition, but subsequently revoked the approval. The Petitioner filed a timely appeal which we summarily dismissed. The matter is now before us on a motion to reopen and reconsider. The motions will be denied.

In her notice of intent to revoke the Director informed the Petitioner that the record was insufficient to demonstrate that she was married to her claimed lawful permanent resident spouse, I-D-<sup>1</sup> and that she met the requirements necessary to show a common law marriage in Texas. As part of her determination that the Petitioner did not meet the requirements for common law marriage in Texas, the Director noted that the Petitioner had submitted an altered lease and rent receipts and that all utility documents were in the Petitioner's name only. The Director revoked approval of the petition finding that the Petitioner had not established a qualifying relationship and her corresponding eligibility for immigrant classification under section 203(a)(2)(A) of the Act. On appeal, the Petitioner indicated that she would submit a brief, but did not. We, therefore, summarily dismissed the appeal, finding that the Petitioner had not identified specifically any erroneous conclusion of law or statement of fact for the appeal, and noted that the Petitioner had not submitted a brief on appeal. The Petitioner subsequently filed the instant motion.

A motion to reopen must state the new facts to be proved 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 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)

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<sup>1</sup> Name withheld to protect individual's identity.

On motion, the Petitioner acknowledges receiving notice that her appeal had been transferred to us but then asserts that she “was not certain that the appeal had even been accepted by USCIS,” and “[t]herefore . . . did not know where and to whom she would send a brief in support of [her] appeal.” The Petitioner does not describe any actions taken or otherwise indicate any attempt to follow up on her appeal after receiving notice that it had been forwarded to us. Even if the Petitioner’s explanation could be accepted as remedying the lack of brief submitted in support of the appeal, the Petitioner has again not submitted any brief or statement on motion specifically addressing the Director’s grounds for denial.<sup>2</sup>

The Petitioner has not asserted new facts to be proved in the reopened proceeding and does not cite binding precedent decisions or other legal authority establishing that we or the Director incorrectly applied the pertinent law or agency policy, and that the prior decisions were erroneous based on the evidence of record at the time. Consequently, the Petitioner has not met the requirements for a motion to reopen and/or reconsider and the motions must therefore be denied. 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be denied).

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

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

Cite as *Matter of N-R-*, ID# 15517 (AAO Nov. 2, 2015)

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<sup>2</sup> A cursory review of the record does not demonstrate any error on the part of the Director. Under Texas law, an “informal marriage,” also known as a common law marriage, is formed when a man and a woman mutually agree to be married, live in the state of Texas as a married couple, and represent to others that they are married. See TEX. FAM. CODE ANN. § 2.401 (West 2015); see also *Burden v. Burden*, 420 S.W.3d 305, 308 (Tex. Crim. App. 2013). Although the Petitioner’s accredited representative indicated that the Petitioner and I-D- agreed to be married, lived together in Texas as a married couple, and made representations to other parties that they were husband and wife, the Petitioner did not make these assertions in her personal statements, nor did the friends and acquaintances who provided personal statements regarding I-D-’s abuse of the Petitioner. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1,3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The other evidence that the Petitioner provided, such as lease agreements and insurance documents, are incomplete and do not otherwise establish that she and I-D- shared a common-law marriage in the state of Texas.