



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

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

MATTER OF S-B-

DATE: NOV. 24, 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 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. 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 Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on a finding that the evidence did not establish that the Petitioner married his U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty by his spouse. On appeal, we remanded the Director's denial for further action. The Director again denied the petition and certified the decision to us for review. We affirmed the Director's denial of the petition and dismissed the appeal. The Petitioner subsequently filed six motions to reopen and reconsider. On each motion, we either denied the motion or found that the Petitioner had not established eligibility for classification under section 204(a)(1)(A)(iii) of the Act. Our previous decisions are incorporated here by reference. The Petitioner has now filed a seventh motion to reopen and motion to reconsider.

On motion, the Petitioner submits a brief that is substantially similar to briefs he previously submitted. The Petitioner has not met the requirements of a motion to reopen by stating new facts supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). He also has not met the requirements of a motion to reconsider by citing binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied law or agency policy or was incorrect based on the relevant evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

The Petitioner requests the opportunity to present his claims by oral argument. The Petitioner's request for oral argument is denied. The decision whether to grant oral argument is within our discretion, and we typically adjudicate appeals and motions based on the written record of proceedings. The Petitioner's case does not involve issues of particular significance that would be better addressed through oral argument.

The Petitioner asserts on motion that we did not fully evaluate the evidence he submitted to support his claim of battery and extreme cruelty. He contends that he submitted sufficient evidence that his spouse was unfaithful, and that her infidelity caused him long-term "abusive emotional and psychological

effect.” According to the Petitioner, the psychological evaluations he previously submitted demonstrate that he was subjected to emotional abuse, isolation, humiliation, economic coercion, and controlling behavior by his U.S. citizen spouse. The Petitioner summarizes the evidence he previously submitted and argues that it is sufficient to meet his burden.

Additionally, the Petitioner asserts on motion that he previously submitted sufficient evidence to demonstrate that he married his U.S. citizen spouse in good faith. He contends that documentation of his courtship with his spouse, the marriage certificate, a certificate from the priest who performed the marriage ceremony, photographs of the wedding, copies of the wedding invitation, and supporting declarations constitute sufficient primary evidence of good-faith marriage. The Petitioner also alleges that the fact that he traveled to the United States as a K-3 nonimmigrant spouse of a U.S. citizen indicates that his marriage was genuine. He asserts that we did not fully consider the evidence he submitted.

In our decision on appeal, we conducted a full, *de novo* review of all evidence in the record. The Petitioner’s allegations that we did not do so are without merit. Furthermore, in our decisions on the Petitioner’s previous six motions, we carefully considered the Petitioner’s arguments and the evidence he submitted. On motion, the Petitioner has not submitted new evidence or cited binding cases or other legal authority to demonstrate that we erred based on the evidence in the record at the time of the decision. Instead, the Petitioner summarizes the evidence he previously submitted and asserts that it was sufficient to meet his burden of proof. Although the Petitioner cites *Hernandez v. Ashcroft*, 345 F.3d 824 (9th Cir. 2003), we explained in our May 18, 2015 decision that *Hernandez* is not binding in the Petitioner’s case, and is factually different from the Petitioner’s case. Accordingly, the Petitioner has not met the requirements for a motion to reopen or a motion to reconsider.

In these proceedings, the Petitioner bears the burden of proving eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369. Here, the Petitioner has not met that burden. Therefore, the motions are denied.

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

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

Cite as *Matter of S-B-*, ID# 15114 (AAO Nov. 24, 2015)