



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

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

MATTER OF M-E-S-A

DATE: OCT. 15, 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. *See* Immigration and Nationality Act (the Act) § 204(a)(1)(B)(ii), 8 U.S.C. § 1154(a)(1)(B)(ii). The Acting Director, Vermont Service Center (Director), denied the petition. We dismissed a subsequent appeal. The matter is now before us on a motion to reopen and a motion to reconsider. The motion will be denied.

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, as the record did not establish that the Petitioner entered into marriage with her former lawful permanent resident spouse in good faith, and that he subjected her to battery or extreme cruelty during their marriage. On appeal, we affirmed the Director's decision and additionally determined that the Petitioner did not demonstrate that she had a qualifying relationship with a lawful permanent resident and that she is eligible for preference immigrant classification based on such a qualifying relationship. The Petitioner subsequently filed the instant motion to reopen and to reconsider.

A motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider. A motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period may be excused if the petitioner demonstrates that the delay was reasonable and beyond her control. 8 C.F.R. § 103.5(a)(1)(i). If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). We issued our decision dismissing the appeal on September 18, 2014. The Petitioner did not file the current motion until March 10, 2015, 173 days after we issued our decision.

We dismissed the appeal, in part, because the Petitioner stated that she was married twice before her marriage to her lawful permanent resident spouse, C-R-¹, upon which the instant Form I-360 is based, and she did not submit evidence of her divorce from her first spouse. We determined that the Petitioner thus did not have a qualifying relationship with a lawful permanent resident of the United States. On motion, the Petitioner claims that she did not legally marry her first spouse, I-R-², but

¹ Name withheld to protect the individual's privacy.

² Name withheld to protect the individual's privacy.

(b)(6)

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that she and I-R- obtained the consent of their village elders to live together as husband and wife in Guyana. She further submits a copy of I-R-'s death certificate issued on [REDACTED] 2007, in Guyana, to establish that, in any event, I-R- was deceased prior to her marriage to C-R-. The Petitioner requests that we accept her motion to reopen outside of the 30 day period due to circumstances beyond her control. She states that despite her diligence she was unable to obtain new and material evidence within 30 days. The Petitioner, however, has not shown that a nearly six-month delay in filing the motion to reopen was reasonable and outside of her control.³

As the petitioner has not filed the motion to reopen and to reconsider within 30 days, or demonstrated that the delay in filing the motion to reopen was reasonable and beyond her control, the motion to reopen must be denied. *See* 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of M-E-S-A-*, ID# 14654 (AAO Oct. 15, 2015)

³ We dismissed the appeal on multiple grounds. The newly obtained evidence addresses only one of the grounds for dismissal.