



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

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

MATTER OF M-C-V-

DATE: SEPT. 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 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 Director, Vermont Service Center, denied the petition. The Administrative Appeals Office (AAO) dismissed the subsequent appeal. The matter is now before us on a seventh motion to reopen and reconsider. The motion will be denied.

The Director denied the petition for failure to demonstrate the requisite battery or extreme cruelty. On motion, the Petitioner submits a letter repeating assertions which we have previously considered to be insufficient to establish eligibility.

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 last decision on February 13, 2015, and the Petitioner filed the motion on March 19, 2015, 34 days after we issued the decision. As the motion was untimely filed, and the Petitioner has not shown that failure to timely file the motion to reopen was reasonable and beyond her control, the motion to reopen and to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be dismissed).

Even if the motion was timely filed, it would still be denied because it fails to meet the requirements for a motion to reopen and to reconsider. A motion to reopen must state the new facts to be proved in the reopened proceeding 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).

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The Petitioner states in her letter that she was the subject of extreme cruelty during her marriage. The Petitioner offers no new facts to be proved and submits no additional evidence with the motion. Accordingly, the motion to reopen must be denied. Nor does the Petitioner's submission meet the requirements for a motion to reconsider. The Petitioner does not cite any binding precedent decisions or other legal authority establishing that our prior decisions incorrectly applied the pertinent law or agency policy, and does not show that our prior decisions were erroneous based on the evidence of record at the time of the decision. Consequently, the motion to reconsider must also be denied. *See* 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion is denied.

Cite as *Matter of M-C-V-*, ID# 13873 (AAO Sept. 15, 2015)