U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-M-M-

DATE: JAN. 4, 2016

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 dismissed the Petitioner's subsequent appeal. The matter is now before us on a motion to reconsider. The motion 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 resided jointly with his U.S. citizen spouse, D-E-,[1] was battered or subjected to extreme cruelty by D-E-, and married D-E- in good faith. Additionally, the Director concluded that approval of the Form I-360 was barred by section 204(c) of the Act, 8 U.S.C. § 1154(c), because the Petitioner previously entered into marriage with another U.S. citizen, K-W-,[2] for purposes of evading the immigration laws. The Director also found that approval of the Form I-360 was barred by section 204(g) of the Act, 8 U.S.C. § 1154(g) because the Petitioner married D-E- while in removal proceedings, and had not demonstrated eligibility for the *bona fide* marriage exemption pursuant to section 245(e) of the Act, 8 U.S.C. § 1255(e).

In our decision on appeal, we found that the preponderance of the evidence established that the Petitioner was battered or subjected to extreme cruelty by D-E-, and that he married D-E- in good faith. However, we also concluded that the evidence did not establish that the Petitioner resided jointly with D-E- during their marriage, that approval of the Form I-360 was barred by section 204(c) of the Act because he previously married K-W- for purposes of evading the immigration laws, and that approval of the Form I-360 was barred by section 204(g) of the Act because the Petitioner did not establish by clear and convincing evidence that his marriage to D-E- was *bona fide*. Furthermore, beyond the decision of the Director, we found that the Petitioner had not established that he is a person of good moral character, as required by section 204(a)(1)(A)(iii)(II)(bb) of the Act. Our previous decision is incorporated herein by reference.

[1] Name withheld to protect the individual's identity.
[2] Name withheld to protect the individual's identity.

On motion, the Petitioner submits documentation which appears to relate to his good moral character. This documentation includes a Certificate of Completion for a defensive driving course; a receipt for a payment to a court (the court name and location are obscured); an Order of Probation Conditions that appears to relate to the receipt for payment to a court, based on matching case numbers; and Criminal Docket sheets indicating that the Petitioner was charged with leaving the scene of property damage, which was dismissed, and negligent operation of a motor vehicle, for which he was placed on administrative supervision after admitting to sufficient facts. In our decision on appeal, we indicated that the Petitioner had submitted some documentation relating to his conviction for negligent operation of a motor vehicle, but had not addressed his good moral character in his own declarations, and nor had his brothers and friends attested to his moral character in their statements. We also noted that the Petitioner did not supply police clearances or criminal background checks from each place he had resided for at least six months during the three years immediately preceding the filing of the Form I-360. The Petitioner does not provide a statement on motion regarding his good moral character or the relevance of the documentation he submits, nor does he provide the evidence we discussed in our decision on appeal.

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). Other than to provide documents apparently related to good moral character, the Petitioner does not address on motion any of the other findings in our decision on appeal and he does not provide a statement regarding the basis for his motion to reconsider. The Petitioner does not cite to precedent decisions to establish that our prior decision was based on an incorrect application of law or USCIS policy. Nor does the Petitioner establish that our prior decision was incorrect based on the evidence of record at the time. Consequently, the motion to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4).

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). Here, the Petitioner has not met that burden. Accordingly, the motion to reconsider will be denied.

ORDER: The motion to reconsider is denied.

Cite as *Matter of R-M-M-*, ID# 15227 (AAO Jan. 4, 2016)