



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

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

MATTER OF L-K-

DATE: JAN. 8, 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. We dismissed the Petitioner's subsequent appeal and affirmed our decision in response to two prior motions filed by the Petitioner. The matter is now before us on a third motion to reconsider. The motion will be denied.

#### I. APPLICABLE LAW

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).

#### II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on a finding that the preponderance of the evidence did not establish that the Petitioner was battered or subjected to extreme cruelty by her U.S. citizen ex-spouse. In our decision on appeal, dated April 24, 2014, we affirmed the Director's decision. We found that the Petitioner did not present probative, detailed, credible evidence regarding specific instances of battery or extreme cruelty. Additionally, we found that the Petitioner did not establish a qualifying relationship with her U.S. citizen ex-spouse. We noted that the Petitioner and her ex-spouse divorced before the Petitioner filed the Form I-360, and she did not establish that the divorce was connected to battery or extreme cruelty.

The Petitioner filed a motion to reopen and a motion to reconsider on May 19, 2014. In a decision dated January 2, 2015, we denied the motion to reconsider, granted the motion to reopen, and affirmed our decision on appeal that the Petitioner did not demonstrate that she was battered or subjected to extreme cruelty or that her divorce from her U.S. citizen ex-spouse was connected to battery or extreme cruelty. We stated that, although the Petitioner submitted evaluations from two psychologists who reported that the Petitioner's ex-spouse subjected her to psychological abuse, the record did not contain

detailed, probative evidence regarding specific instances of battery or extreme cruelty. Additionally, we noted that there were inconsistencies between the two psychological evaluations which diminished their evidentiary value.

The Petitioner filed a second motion to reconsider on January 30, 2015. We denied that motion on June 30, 2015, finding that the Petitioner did not submit detailed, probative evidence to meet her burden of establishing that she was battered or subjected to extreme cruelty. We also noted that the Petitioner did not address the inconsistencies we raised in our previous decision, nor did she address our previous finding that she did not establish a qualifying relationship with her U.S. citizen ex-spouse.

Our previous decisions are incorporated herein by reference. In support of her third motion to reconsider, the Petitioner submits a brief.

### III. ANALYSIS

In her brief on motion, the Petitioner asserts that we incorrectly applied law and USCIS policy. She contends that she submitted sufficient evidence that her U.S. citizen ex-spouse subjected her to a pattern of extreme cruelty in the form of psychological abuse. She also claims that she need not provide evidence of specific instances of extreme cruelty because she provided evidence of an overall pattern of abuse by her U.S. citizen ex-spouse, including verbal and emotional abuse, abandonment, threats, and withdrawal of the immigration petition the Petitioner's ex-spouse filed on her behalf. The Petitioner states that the psychological evaluations she submitted demonstrated that the actions of her ex-spouse caused her to suffer depression, anxiety disorder, panic disorder, and post-traumatic stress disorder.

The regulation at 8 C.F.R. § 204.2(c)(1)(vi) provides that battery or extreme cruelty includes, but is not limited to, acts or threats of violence, such as forceful detention, psychological abuse, or sexual abuse. Additionally, the regulation provides that battery or extreme cruelty may include "acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence." The Petitioner asserts on motion that this portion of the regulation allows her to establish that she suffered extreme cruelty without providing evidence of specific instances of abuse. The Petitioner misinterprets the regulation. To establish that she was the victim of "an overall pattern of violence," the Petitioner must provide a detailed and probative account of the acts that compose the pattern. The Petitioner has not done so. In her previous submissions, the Petitioner provided generalized statements regarding abusive acts by her ex-spouse, but she did not discuss specific abusive acts in probative detail. The Petitioner also provided two psychological evaluations, which indicated that the Petitioner suffered from mental health difficulties as a result of abuse by her ex-spouse, but those evaluations also discussed the alleged abuse by the Petitioner's ex-spouse in general terms. As we previously noted, we value the professional opinions of the psychologists, but the evaluations did not provide probative, detailed descriptions of the alleged abuse and, more importantly, contained inconsistencies.

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The Petitioner provides no additional evidence on motion, nor does she cite pertinent precedent decisions to establish that our initial decision was based on an incorrect application of law or USCIS policy and was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). Additionally, the Petitioner does not address on motion our previous finding in our decision dated January 2, 2015, that the psychological evaluations contained inconsistencies. Furthermore, the Petitioner does not address on motion our conclusion in our initial decision that she has not demonstrated a qualifying relationship with her U.S. citizen ex-spouse. Therefore, the Petitioner's submission does not meet the requirements of a motion to reconsider.

#### IV. CONCLUSION

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.

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

Cite as *Matter of L-K-*, ID# 15579 (AAO Jan. 8, 2016)