(b)(6)

U.S. Citizenship and Immigration Services

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

MATTER OF K-T-N-

DATE: JAN. 15, 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 appeal and denied a subsequent motion to reopen and to reconsider. The matter is again before us on a motion to reopen and to reconsider. The motions will be denied.[1]

## I. APPLICABLE LAW

A motion to reopen must state the new facts to be proved 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 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. FACTS AND PROCEDURAL HISTORY

The Director denied the petition finding that the Petitioner did not establish that the Petitioner entered into his marriage with his former spouse in good faith and that she subjected him to battery or extreme cruelty during their marriage. In a decision that thoroughly discussed and analyzed the Petitioner's statements and evidence, we affirmed the Director's decision and dismissed the Petitioner's appeal. In our subsequent decision on the Petitioner's motion, we determined that the

[1] The Petitioner is considered to be self-represented. The Petitioner included with the underlying Form I-360 petition, a Form G-28, Notice of Appearance as Attorney or Representative, signed by him and identifying as an attorney in good standing with "U.S. Illinois Supreme Court" and associated with ' In the matters before us, however, as did not submit a new Form G-28, we requested that he submit a new Form G-28 and documentation of his qualifications to represent the Petitioner. Although responded to our request, he did not provide a new Form G-28 and evidence of his qualifications to represent the Petitioner in matters before U.S. Citizenship and Immigration Services.

Petitioner's submission did not meet the requirements for either a motion to reopen or reconsider and denied his motion accordingly. Our previous decisions are incorporated here by reference.

## III. ANALYSIS

With this current motion, the Petitioner submits a brief, an article about the history and application of the law regarding abused spouses, and general information from USCIS about its Ombudsman and our precedent and nonprecedent decisions. The Petitioner asserts, "Everything possible has been submitted to USCIS in [,] VT in the facts, and the evidence to support this case." In addition, the Petitioner reiterates his disagreement with our prior decisions to dismiss his appeal and deny his motion to reopen and reconsider, and he reasserts that he has provided sufficient evidence to establish his abuse by his U.S. citizen spouse and that he married her in good-faith. The Petitioner further argues that, "[He] can still submit some proof of documents [and] papers but [has] not been given the right to do this." The Petitioner does not identify the additional "documents [and] papers" he claims to have and does not explain how he was prevented from submitting this "proof" during the proceedings before the Director or before us on appeal and with his prior and current motions.

### A. Motion to Reopen

Although the Petitioner has submitted additional documents on motion, these documents do not present any new facts. The Petitioner's statements on motion focus on his disagreement with our prior decisions and the decision of the Director and generally refer to his prior evidence and claims he previously made. He does not, however, provide new facts specifically related to his claims of good-faith marriage and abuse. As the Petitioner does not provide any new facts on motion to overcome our prior determination, we must deny the motion to reopen for failing to meet the applicable requirements pursuant to 8 C.F.R. § 103.5(a)(4).

### B. Motion to Reconsider

The Petitioner's submission also does not meet the requirements for a motion to reconsider. Like his previous motion to reconsider, the Petitioner does not cite any binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied the pertinent law or agency policy. Moreover, a review of the record indicates that our prior decisions were supported by the evidence in the record at the time, and we did not ignore or mischaracterize the Petitioner's evidence, or apply an erroneous standard of review. Accordingly, we must deny the motion to reconsider for failing to meet the applicable requirements pursuant to 8 C.F.R. § 103.5(a)(4).

## IV. CONCLUSION

The Petitioner bears the burden of proof to establish his eligibility. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127-28 (BIA 2013). Here, that burden has not been met. Accordingly, the motion to reopen and to reconsider will be denied.

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

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

Cite as *Matter of K-T-N-*, ID# 14332 (AAO Jan. 15, 2016)