



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

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

MATTER OF N-N-D-

DATE: JAN. 20, 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 a subsequent appeal. The matter is now before us on a motion to reopen. 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 her U.S. citizen spouse during their marriage, that the Petitioner entered into the marriage in good faith, and that her spouse subjected her to battery or extreme cruelty during their marriage. The Petitioner then filed a timely appeal. In our decision on appeal, we concluded that the preponderance of the relevant evidence did not demonstrate that the Petitioner resided jointly with her spouse and that she married her spouse in good faith. However, in our decision on appeal, we found that the preponderance of the relevant evidence demonstrated that her spouse subjected the Petitioner to battery or extreme cruelty during their marriage and we withdrew that portion of the Director's decision finding to the contrary.

A motion to reopen must state new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). On motion, the Petitioner only submits a copy of the same brief submitted on appeal (but retitled as a brief for the motion), which summarizes the evidence she previously submitted with the Form I-360 and on appeal, and repeats verbatim the arguments contained in her appeal brief. The Petitioner's brief on motion, which as we stated is the same brief submitted with the appeal, focuses entirely on the Director's decision, and does not address any of the specific findings we made in our decision on appeal. The Petitioner does not offer any new facts with supporting documentary evidence to support a motion to reopen and nor does Petitioner clearly assert that we erred in our decision on appeal.

Accordingly, the Petitioner's submission does not meet the requirements of a motion to reopen under 8 C.F.R. § 103.5(a)(2). Consequently, the motion to reopen must be denied. *See* 8 C.F.R. § 103.5(a)(4).

Matter of N-N-D-

The Petitioner bears the burden of proof to establish her eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion to reopen is denied.

Cite as *Matter of N-N-D-*, ID# 15692 (AAO Jan. 20, 2016)