



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

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

MATTER OF E-B-M-

DATE: JULY 27, 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) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director, Vermont Service Center, denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). The Director concluded that based on the Petitioner's convictions, she had not submitted sufficient evidence to establish her good moral character. We summarily dismissed the Petitioner's appeal, and denied a subsequent motion to reopen and reconsider. Our previous decisions are incorporated here by reference.

The matter is now before us on a second motion to reopen and reconsider. On motion, the Petitioner provides a statement and additional documents.

Upon review, we will deny the motion.

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. ANALYSIS

On motion, the Petitioner submits a personal statement and statements from friends and employers attesting to the Petitioner's character. The Petitioner includes new evidence in the form of a marriage certificate and a letter from her new spouse attesting to the Petitioner's character and explaining how

important she is to his happiness and well-being. While this information reflects favorably on the Petitioner's character, it does not otherwise establish that our prior decisions were incorrect.¹

Although the Petitioner has submitted new facts in support of her motion to reopen, those facts are not sufficient to overcome our prior determinations. Further, she has not met the requirements of a motion to reconsider by citing binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied law or agency policy or was incorrect based on the relevant evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). For these reasons, the Petitioner's motion must therefore be denied.

III. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *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.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of E-B-M-*, ID# 17622 (AAO July 27, 2016)

¹ The Petitioner, having remarried prior to the approval of the VAWA petition filed based upon her marriage to her former spouse, is further precluded from establishing eligibility for the requested immigrant classification. See 8 C.F.R. § 204.2(c)(1)(ii).