



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

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

MATTER OF T-N-M-

DATE: MAY 18, 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 instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. The Director determined the Petitioner did not sufficiently establish that he entered into marriage with his spouse in good faith and that he resided with her, based in part, on his submission of altered documents. The Director also determined that the record did not establish that the Petitioner's spouse subjected the Petitioner to battery or extreme cruelty. We dismissed the Petitioner's appeal.

The matter is before us on motions to reopen and to reconsider. On motion, the Petitioner submits a personal statement and further requests that we reconsider his case because he did not review for accuracy and consistency the dates on the documents he submitted in support of his Form I-360.

Upon review, we will deny the motions to reopen and to reconsider.

**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).

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). A petitioner may submit any evidence for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

### A. Motion to Reopen

In our prior decision, we concluded that the record did not sufficiently establish that the Petitioner resided with his U.S. citizen spouse, entered into their marriage in good faith, and his spouse subjected him to abuse, as his statements and those provided on his behalf did not provide probative details of their shared residence and experiences, his intentions, and their interactions with one another during their almost decade-long relationship. We also determined that the Petitioner's statements and copies of documentary evidence he provided were inconsistent with dates and the locations of his residences as alleged on various forms submitted in support of his Form I-360. In addition, some of the Petitioner's documentation contained alterations.

Although the Petitioner has submitted an additional statement on motion, this document is cumulative to evidence already submitted and considered; it does not offer additional facts or information that overcomes our previous conclusions and establishes the Petitioner's good-faith marriage, joint residence, and abuse. The Petitioner's statements reiterate his previous claims that he and his spouse are the accountholders for the electrical utility at their alleged residence, and that his friend altered a billing statement for the account without his consent. He also generally refers to his prior evidence and statements he previously made. He does not, however, provide new facts with specific and probative details that relate to his claims of good-faith marriage, joint residence, and abuse. In response to our finding that he provided inconsistent information regarding the dates and locations of his claimed residence with his spouse during their marriage, the Petitioner indicates that he did not review the documentation for accuracy, but does not clarify his actual dates of residence. As Petitioner's new facts do not overcome our prior determination, the motion to reopen must be denied.

### B. Motion to Reconsider

The Petitioner's submission does not meet the requirements for a motion to reconsider. On motion, the Petitioner does not argue that we incorrectly applied pertinent law or agency policy, that we ignored or mischaracterized the evidence, or that our prior decision was erroneous based on the evidence of record at the time. Rather, the Petitioner requests that we reconsider our decision because he did not review his documents for accuracy and consistency prior to submission. Again, however, the Petitioner does not provide any clarification to establish the dates and associated locations of his residence with his spouse during their marriage. Accordingly, we must deny the motion to reconsider for not meeting the applicable requirements pursuant to 8 C.F.R. § 103.5(a)(4).

## III. 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, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the motions to reopen and to reconsider will be denied.

*Matter of T-N-M-*

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

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

Cite as *Matter of T-N-M-*, ID# 16640 (AAO May 18, 2016)