



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

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

In Re: 28255767

Date: DEC. 8, 2023

**Motion on Administrative Appeals Office Decision**

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)

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 of the Vermont Service Center denied the petition, concluding that the Petitioner did not establish that she had resided with her U.S. citizen spouse in the United States and that she had entered into the marriage with him in good faith. In our previous appellate decision, incorporated here by reference, we adopted and affirmed the Director's decision and concluded that the Petitioner also had not shown on appeal that she had satisfied the shared U.S. residence and good faith entry into marriage requirements under VAWA. The matter is now before us on combined motions to reopen and reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will grant the motion to reopen and remand the matter for entry of a new decision consistent with the following analysis.

**I. LAW**

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

**II. ANALYSIS**

As discussed, in our previous decision, we adopted and affirmed the Director's underlying determination that the Applicant did not establish that she had resided with her U.S. citizen spouse in

the United States and that she had entered into the marriage with him in good faith. We determined that the Director was correct in concluding that the Petitioner's evidence, including her personal statements, lacked probative, detailed testimony regarding her claimed shared residence with her spouse and their courtship, wedding ceremony, and shared experiences for purposes of establishing her good faith marital intentions.

On motion to reconsider, the Petitioner contests the correctness of our prior decision, asserting that we did not apply the preponderance of the evidence standard of proof to our review of the evidence. With her motion to reopen, she submits new evidence, including an additional personal statement, a letter from her uncle, and a new psychological evaluation. In her new personal statement, the Petitioner addresses the deficiencies in the evidence raised by the Director and in our prior decision. Specifically, she provides additional, substantive information regarding first meeting her former spouse, D-R-,<sup>1</sup> and their courtship during the time that she resided in California, and he resided in Nevada. She describes the places they visited and their shared experiences in California and in Las Vegas prior to their marriage. The Petitioner also provides additional details as to D-R-'s marriage proposal to her on Halloween of 2014, meeting D-R-'s mother, introducing D-R- to her brothers, their wedding day ceremony in Las Vegas, and her feelings toward D-R- before and after their wedding. The Petitioner's motion statement further discusses in substantive detail their shared residences, first with her brother and then in their own apartment, and contains details regarding shared marital experiences that were not in her prior statements.<sup>2</sup> The Petitioner's new evidence on motion is material as it directly addresses the deficiencies noted by the Director and in our prior appeal decision, finding that the record did not include probative, detailed testimony and evidence with respect to her marital intentions and shared residences with D-R-. Accordingly, we will reopen the matter and remand the matter for the Director's consideration, in the first instance, of the new, material evidence provided on motion, including the Petitioner's personal statement, the statement from her uncle, and the psychological evaluation.

**ORDER:** The motion to reopen is granted, and the matter is remanded for the entry of a new decision consistent with the foregoing analysis.

---

<sup>1</sup> We withhold names to protect the individuals' privacy.

<sup>2</sup> As the Petitioner's motion to reopen is granted, the motion to reconsider is dismissed as moot.