



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

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

In Re: 24562710

Date: FEB. 14, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition). We dismissed the Petitioner's subsequent appeal and motions to reopen and reconsider, which we incorporate here by reference. The matter is before us again on a sixth motion to reopen and reconsider. On motion, the Petitioner submits additional evidence and asserts again that the record demonstrates his eligibility for the benefit sought. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motions.

A motion to reopen must state new facts to be proved and be supported by affidavits or other evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our 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). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

The Petitioner, a citizen of Nigeria, married L-L-,¹ a U.S. citizen, in [] 2013 and filed the current VAWA petition in March 2016. The Director denied the petition, concluding that the Petitioner did not establish that he had a qualifying relationship with his U.S. citizen spouse, entered into marriage in good faith, jointly resided with L-L-, or was subjected to battery or extreme cruelty. Though we initially affirmed the Director's finding that the Petitioner had not demonstrated the requisite qualifying spousal relationship to a U.S. citizen based on his marriage to L-L- because he had not established the legal termination of his prior marriage, in a subsequent decision on his third combined motion, we concluded that the Petitioner had addressed the discrepancies in the record and demonstrated the legal termination of his prior marriage. However, in each of our decisions on the Petitioner's subsequent motions, we concluded that the Petitioner had not overcome our prior determinations on appeal that he did not establish he married L-L- in good faith, jointly resided with her, or that she subjected him to battery or extreme cruelty during the marriage. We found that the Petitioner did not establish these requirements because the evidence provided was general and lacked

¹ We use initials to protect the privacy of individuals.

sufficient probative detail. We also determined that he offered no additional documentation or further explanation to overcome discrepancies in lease documents and derogatory information obtained by USCIS officers during a visit to his claimed residence with L-L-. We further concluded that he failed to establish error in our previous decisions that the evidence did not show he married L-L- in good faith, jointly resided with her, or that he was subjected to any actual or threatened violence, or any other actions comparable to battery or extreme cruelty.

On the instant motion, the Petitioner submits a statement in which he makes similar assertions as in his previous motion filings. The Petitioner asserts generally that: the previous decisions were not in accordance with applicable law, policy, and legal decisions; there is no evidence that his marriage was entered into for the primary purpose of circumventing immigration laws; he was verbally and physically abused by L-L-; and we did not give sufficient weight to submitted evidence, such as his psychological evaluation and medical report. The Petitioner states that he and L-L- have affirmed that they were married out of the love they have for each other and established a life together at their apartment. The Petitioner contends that USCIS determined that he did not reside with L-L- because during a USCIS investigatory visit to his residence, USCIS officers spoke to leasing agents who identified L-L- as residing in the home but reported that the Petitioner did not live there and they had not seen him on the property. He further states that USCIS officers finding him at his sister's house where he claims he was providing care for his sick mother was not sufficient to determine he did not reside with L-L- at their joint residence. The Petitioner argues that the previously submitted evidence establishes his eligibility for the benefit sought, the marriage was entered in good faith, he jointly resided with his spouse, and he was abused by his spouse. We note that the Petitioner references additional evidence in his statement, but apart from his statement, does not submit any additional evidence in support of the combined motion.

The claims made by the Petitioner on the instant motion have been fully addressed in our previous decisions. Apart from general assertions of error on this motion to reconsider, the Petitioner does not cite to any specific errors in our application of law or USCIS policy in our previous decision, nor has he established our prior decision was in error based on the record at the time. 8 C.F.R. § 103.5(a)(3). His new statement on motion to reopen makes similar assertions as in his previous motion filings, but he does not submit any additional evidence and does not assert any new facts to overcome the other deficiencies noted in our previous decisions, or otherwise establish his eligibility. 8 C.F.R. § 103.5(a)(2).

As the Petitioner has not established legal or factual error in our prior decision, and has not established new facts on motion to establish his eligibility, he has not overcome our previous finding that he did not establish he married L-L- in good faith, jointly resided with her, or that she subjected him to battery or extreme cruelty during their marriage. Accordingly, the Petitioner remains ineligible for immigrant classification under VAWA and the petition remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.