



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

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

In Re: 30681197

Date: OCT. 31, 2023

**Motion on Administrative Appeals Office Decision**

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

The Petitioner seeks immigrant classification as an abused child of a lawful permanent resident (LPR) under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii).

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner did not establish a qualifying relationship. We dismissed a subsequent appeal. 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 dismiss the motions.

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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

A child of an LPR may self-petition for immigrant classification if, among other requirements, they demonstrate that they were battered or subjected to extreme cruelty perpetrated by the LPR parent. Section 204(a)(1)(B)(iii) of the Act. In addition, a petitioner must show that they are eligible to be classified as an immediate relative under section 203(a)(2)(A) of the Act, resided with the abusive parent, and are a person of good moral character.

In our prior decision, incorporated here by reference, we concurred with the Director and confirmed that a search of United States Citizenship and Immigration Services (USCIS) records did not provide evidence that the Petitioner's father ever obtained United States citizenship or adjusted status to that

of lawful permanent resident, and as such, he was ineligible for immigrant classification under VAWA.

With his combined motions, the Petitioner submits a statement reiterating his belief that USCIS processing times resulted in him not knowing that his “status was in imminent danger,” and that had he known, he would have been able to pursue other possibilities such as Special Immigrant Juvenile status, a U nonimmigrant visa, or Deferred Action for Childhood Arrivals. The Petitioner asks that we reconsider our dismissal of his appeal, and “explore the opportunity of being grandfathered in to one of the above statuses.” However, as we stated in our prior decision, the only issue before us is whether he is eligible for immigrant classification under VAWA. The Petitioner does not provide any reference to a relevant statute, regulation, policy, or precedent decision that would allow us “grandfather” him into another status or allow him to obtain VAWA classification without establishing that he meets the statutory and regulatory requirements. The Petitioner also does not contest that our dismissal of his appeal was based on an incorrect application of law or policy, nor does his new statement provide new facts for us to consider.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

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

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