U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20755002

Date: AUG. 2, 2022

Appeal of Vermont Service Center 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). On appeal, the Petitioner asserts her eligibility for VAWA classification. We review the questions in this matter de novo. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). Amongst other requirements, a petitioner who is divorced from their *bona fide* United States citizen spouse may file a self-petition only up to two years following the termination of a qualifying marriage. Section 204(a)(1)(A)(iii)(II)(CC) of the Act.

Petitioners may also self-petition for immigrant classification if they demonstrate, among other requirements, they believed they married a U.S. citizen, a marriage ceremony was actually performed, and they meet "any applicable requirements under this chapter to establish the existence of and bona tides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States." Section 204(a)(l)(A)(iii)(II)(BB) of the Act.

Petitioners may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Petitioners bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The record reflects that the Petitioner married O-N-,[1] a U.S. citizen, in [redacted] 2008. The Petitioner asserts that she later discovered that she was in a bigamous marriage with O-N-.[2] The Petitioner divorced O-N- in [redacted] 2013. In October 2019, the Petitioner filed a VAWA petition based on this marriage.

The Director denied the VAWA petition, concluding that the Petitioner had not established a qualifying relationship to a U.S. citizen within two years of filing. Because the Petitioner could not demonstrate a qualifying relationship, the Director found that she was also unable to demonstrate eligibility for immigrant classification under sections 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act.[3] On appeal, the Petitioner contends that the Director erred in evaluating her eligibility for VAWA classification as a *bona fide* spouse of O-N- under section 204(a)(1)(A)(iii)(II)(aa)(CC) of the Act. Instead, she argues that she was an intended spouse of O-N- and as such, the Director should have evaluated her eligibility under section 204(a)(1)(A)(iii)(II)(aa)(BB) of the Act. As an intended spouse, the Petitioner argues that the two-year filing deadline does not apply to her and that she had a qualifying relationship with O-N- but for his bigamy.[4]

Regarding a petitioner whose intended spouse committed bigamy, subsection 204(a)(l)(A)(iii)(II)(aa) provides that the petitioner may still file a VAWA petition under these provisions if he or she:

> (AA) [is] the spouse of a citizen of the United States; (BB) who believed that he or she had married a citizen of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States[.]

Emphasis added.

Although section 204(a)(l)(A)(iii)(II)(aa)(CC) of the Act provides limited exceptions to the two-year filing requirement for a petitioner who was the *bona fide* spouse of a U.S. citizen or lawful permanent resident (LPR), the VAWA petition must be filed within two years of the legal termination of the marriage.

---

[1] Initials are used to protect the individual's privacy.

[2] O-N- married L-N- in [redacted] 1993. They divorced in [redacted] 2007 and remarried in [redacted] 2007. They divorced again in [redacted] 2010.

[3] The Director did not determine the Petitioner's eligibility for other grounds in the denial of the current petition. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve these additional issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n. 7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

[4] Additionally, the Petitioner contends that USCIS should equitably toll her VAWA petition if the two-year deadline applies as a matter of agency discretion.

Here, the Petitioner does not meet either subsection. After her marriage to O-N- in [redacted] 2008, the Petitioner filed for and was granted a divorce in [redacted] 2013.[5] She subsequently filed the VAWA petition based on her marriage to O-N- in October 2019. Consequently, at filing, the Petitioner was no longer the spouse of a United States citizen and her marriage was not in "existence" for purposes of sections 204(a)(1)(A)(iii)(II)(aa)(AA) and (BB) of the Act; her marriage terminated by divorce almost seven years before she filed her VAWA petition. Moreover, because the Petitioner did not file her VAWA petition within two years of the legal termination of her marriage from O-N-, she is also ineligible for VAWA classification under 204(a)(1)(A)(iii)(II)(aa)(CC)(aaa) of the Act.

Accordingly, the Petitioner has neither established her eligibility under 204(a)(1)(A)(iii)(II)(aa)(BB) of the Act as an intended spouse nor demonstrated that she filed her VAWA petition within two years of the termination of her marriage to O-N-. Overall, the Petitioner has not demonstrated a qualifying relationship to a U.S. citizen as required under section 204(a)(1)(A)(iii)(II)(aa) of the Act.

III. CONCLUSION

The Petitioner has not overcome the basis of the Director's decision and has not demonstrated the requisite qualifying relationship for VAWA classification.

ORDER: The appeal is dismissed.

[5] The record reflects that the Petitioner legally terminated her marriage to O-N- in the [redacted] Judicial District Court in [redacted] Texas.