U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23404326

Date: DEC. 05, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Parent of a U.S. Citizen

The Petitioner seeks immigrant classification as an abused parent of a U.S. citizen child under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(vii) of the Immigration and Nationality Act (the Act). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Parent of a U.S. Citizen (VAWA petition), and the matter is now before us on appeal.[1] We review the questions in this matter *de novo*. *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

A nonimmigrant who is the parent of a United States citizen may self-petition for immigrant classification as an abused parent of a U.S. citizen child under VAWS provisions if the petitioner demonstrates that they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen child. Section 204(a)(1)(A)(vii) of the Act. In addition, the petitioner must show, among other requirements, that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act. Section 201(b)(2)(A)(i) of the Act provides that for parents of a U.S. citizen to be classified as an immediate relative, the U.S. citizen child must be at least 21 years of age.

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 (AAO 2010). Although U.S. Citizenship and Immigration Services (USCIS) must consider "any credible evidence" relevant to a VAWA petition, we determine, in our sole discretion, the credibility of and weight given to that evidence. *See* section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

[1] Appeals filed by representatives must contain a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. 8 C.F.R. §§ 103.3(a)(2)(v)(A)(*2*), 292.4(a). The instant Form I-290B, Notice of Appeal or Motion, was not accompanied by a new, properly executed Form G-28, and we will therefore treat the Petitioner as self-represented.

II. ANALYSIS

In May 2012, the Petitioner, a native of Trinidad and Tobago, filed a VAWA petition as a parent of an abusive U.S. citizen child, M-P-.[2] The Director denied this petition, concluding that because evidence in the record showed that M-P- was under the age of 21 when the petition was filed, the Petitioner had not demonstrated a qualifying relationship as a parent of a U.S. citizen child and corresponding eligibility for immigrant classification under section 201(b)(2)(A)(i) of the Act. The Director also noted that the Petitioner had not provided evidence sufficient to establish her good moral character.

On appeal, the Petitioner asserts her eligibility for the classification sought. Upon *de novo* review, we adopt and affirm the Director's decision with the comments below. *See Matter of P. Singh, Attorney*, 26 I&N Dec. 623 (BIA 2015) (citing *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case).

The arguments and evidence submitted by the Petitioner on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to establish that she has a qualifying relationship with a U.S. citizen child. The Petitioner explains on appeal that she intended to file her VAWA petition in order to request a discretionary waiver as a parent of a U.S. citizen child so that she could qualify for deferred action and secure authorization for employment to support her child. She clarifies that this was a "humanitarian request ... to enable the parent of a U.S. citizen child to provide for the care and upkeep of the child through the grant of a work permit" pursuant to an undated Memorandum from Denise A. Vanison, Policy and Strategy, et. al., *Administrative Alternatives to Comprehensive Immigration Reform*, a copy of which provided with her appeal. However, the Petitioner does not offer evidence to demonstrate that law or USCIS policy provided for such a request to be made by filing a VAWA petition.

Further, the Petitioner has not demonstrated that she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, which provides that in order for a parent to be classified as an immediate relative of a U.S. citizen child, the U.S. citizen child must be at least 21 years of age. As the Director correctly determined, the record below shows that M-P- was under the age of 21 at the time that the Petitioner filed her VAWA petition. As the Petitioner has not overcome the Director's ground for denying her VAWA petition and has not established her eligibility for the classification sought, we will dismiss the appeal.

ORDER: The appeal is dismissed.

[2] Initials are used to protect the privacy of the individual.