U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23752754

Date: DEC. 13, 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 United States 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), concluding that the Petitioner did not establish a qualifying marital relationship, and her corresponding eligibility for immigrant classification. On appeal, the Petitioner submits a brief and additional evidence.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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.

Self-petitioners must demonstrate a qualifying relationship to an abusive United States citizen or lawful permanent resident to be eligible for VAWA benefits. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). However, the self-petitioner's remarriage will be a basis for the denial of a pending self-petition. 8 C.F.R. § 204.2(c)(1)(ii).

The Petitioner, a native and citizen of the Philippines, married T-D-C-, a United States citizen in [redacted] 2017, and she filed her VAWA petition based on this marriage in January 2019.[1] While her petition was pending, the Petitioner married D-S- in [redacted] 2020. As a result, the Director denied the VAWA petition.

On appeal, the Petitioner discusses the consequence of her son's derivative VAWA petition also being denied because of her decision to marry D-S- while her petition was pending. She requests that USCIS approve her VAWA petition, so her son does not lose his ability to obtain VAWA status based on her marriage to T-D-C-. While we recognize that her remarriage had unintended consequences for her son, she does not cite any statutory, regulatory, or precedent decision that would allow us to overlook the requirement found in the regulations that a VAWA petition be denied if the petitioner remarries,

[1] We use initials to protect the identity of individuals.

and we lack the authority to waive the requirements of the regulations. 8 C.F.R. § 204.2(c)(1)(ii); *see also United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (stating that immigration regulations carry "the force and effect of law").

ORDER: The appeal is dismissed.