U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23053694

Date: NOV. 18, 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 under the Violence Against Women Act (VAWA) provisions codified in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii), as an abused spouse of a U.S. citizen. 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 his corresponding eligibility for immigrant classification. The matter is now before us on appeal. On appeal, the Petitioner asserts his eligibility. The Administrative Appeals Office reviews 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 petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and they were battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, the petitioner must establish that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act. Section 204(a)(1)(A)(iii)(II)(cc) of the Act. A petitioner who was a bona fide spouse of a U.S. citizen within the past two years and who demonstrates a connection between the legal termination of the marriage within the past two years and battering or extreme cruelty perpetrated by the U.S. citizen spouse remains eligible to self-petition under these provisions. Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act. 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).

II. ANALYSIS

The Petitioner married a U.S. citizen, C-R-T-,[1] in [redacted] 2009. They resided together from February 2009 until [redacted] 2016, the date they were divorced. In July 2017, the Petitioner filed a VAWA petition based on his prior marriage to C-R-T-, claiming that she engaged in abusive behavior. The

[1] Initials are used throughout this decision to protect the identity of the individual.

VAWA petition was denied in May 2019. In January 2020, the Petitioner filed a second VAWA petition based on his prior marriage to C-R-T-, again claiming that she engaged in abusive behavior. In April 2022, the Director denied the second VAWA petition, which is now before us on appeal, concluding that the Petitioner's marriage was terminated more than two years before he filed the VAWA petition in January 2020. On appeal, the Petitioner asserts that his initial VAWA petition filed in July 2017 must be extended to permit his VAWA petition filing date to remain within two years of the date of his divorce.

We adopt and affirm the Director's decision. *See 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) ("we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the IJ's [Immigration Judge's] findings of fact and his reasons for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision."). Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act states that to remain eligible for immigrant classification despite the termination of a marriage to U.S. citizen spouse, a petitioner must have been the bona fide spouse of a U.S. citizen "within the past 2 years." There is no exception to this rule, and we lack the authority to waive or disregard the requirements of the statute, as implemented by regulation. *See, e.g., United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (explaining that as long as regulations remain in force, they are binding on government officials). Because the Petitioner's divorce occurred more than two years before he filed the instant VAWA petition, he cannot establish a qualifying relationship with his prior U.S. citizen spouse.[2] Additionally, because the Petitioner did not demonstrate a qualifying marital relationship, he cannot establish that he is eligible for immediate relative classification based on such a relationship.

ORDER: The appeal is dismissed.

[2] We do not reach the additional statutory requirement of whether the Petitioner demonstrated a connection between the divorce and the claimed battery or extreme cruelty perpetrated by his former spouse.