U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25134487

Date: FEB. 14, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

The Petitioner seeks immigrant classification as the 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 petition, concluding that the record did not establish that the Petitioner has a qualifying relationship as the spouse of a U.S. citizen or lawful permanent resident (LPR) and is eligible for immigrant classification based on such qualifying relationship. The matter is now before us on appeal. 8 C.F.R. § 103.3. 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). 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.

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. Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, in our sole discretion, what evidence is credible and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

The Petitioner filed her VAWA petition in November 2019 based on a claim of abuse by her U.S. citizen spouse, A-G-.[1] The Director issued a notice of intent to deny, informing the Petitioner that the evidence did not establish she has a qualifying relationship with A-G-. The Director noted that the Petitioner did not submit a marriage certificate and indicated in her personal statement that the marriage was customary but not legally valid. In response, the Petitioner submitted a new personal statement in which she referred to A-G- as her "intended spouse"[2] and reiterated that they had a

[1] We use initials to protect identities.

[2] Although a VAWA self-petitioner may include an intended spouse in certain circumstances, the term "intended spouse"

customary marriage involving a "verbal agreement" but that "it was not a legal civil marriage" because A-G- was in the process of filing a K-1 visa application for her to come to the United States as his fiancée. The Director denied the VAWA petition because the Petitioner did not meet her burden of showing a qualifying relationship with a U.S. citizen spouse, as required, and corresponding eligibility for immigrant classification.

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, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case)." On appeal, the Petitioner does not dispute the Director's determinations or provide any evidence or argument relating to whether she has a qualifying relationship with a U.S. citizen spouse. Instead, she submits medical records for herself and a copy of section 204 of the Act, without any further explanation. The record supports the Director's grounds for denial, and the Petitioner does not allege or provide any evidence on appeal showing that the reasons for the denial were incorrect. Accordingly, the Petitioner has not established that she has a qualifying relationship with a U.S. citizen spouse and is eligible for immigrant classification based on that relationship, as section 204(a)(1)(A)(iii)(II) of the Act requires.

ORDER: The appeal is dismissed.

in this context is defined at section 101(a)(50) of the Act as a person who believed they legally married a U.S. citizen or LPR, a marriage ceremony was actually performed, and the requirements for establishment of a bona fide marriage were otherwise met, but the sole reason for the marriage not being legitimate was the bigamy of the U.S. citizen or LPR. Section 204(a)(1)(A)(iii)(II)(aa)(BB) and (a)(1)(B)(ii)(II)(aa)(BB) of the Act. "Intended spouse" for purposes of a VAWA petition does not include the fiancée of a U.S. citizen or LPR, which the Petitioner claims was her relationship with A-G-
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