U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16709304

Date: FEB. 02, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of a Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused child of a lawful permanent resident (LPR) under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident (VAWA petition), concluding that the Petitioner did not establish a qualifying relationship and was not eligible for immigrant classification based upon that relationship. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A child of an LPR may self-petition for immigrant classification if, among other requirements, they demonstrate that they were battered or subjected to extreme cruelty perpetrated by the LPR parent. Section 204(a)(1)(B)(iii) of the Act. In addition, a petitioner must show that they are eligible to be classified as an immediate relative under section 203(a)(2)(A) of the Act, resided with the abusive parent, and are a person of good moral character. The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

II. ANALYSIS

The record reflects that the Petitioner first entered the United States at four years old in 1999 with a B2 nonimmigrant visa accompanying his parents. He filed his VAWA petition in April 2018. In denying the petition the Director determined that a search of U.S. Citizenship and Immigration Services (USCIS) records did not indicate that the Petitioner's father had obtained lawful permanent residence or U.S. citizenship, therefore the record did not contain evidence to demonstrate that the Petitioner had a qualifying relationship, as required by statute, and he was therefore not able to demonstrate eligibility for immigrant classification.

In his declaration below the Petitioner explained that in 2007 his father applied for a H-1B visa and filed a Form I-485, Application to Adjust Status that included the Petitioner and his mother as derivatives. The Petitioner maintained that after his father's parents died in close succession in 2009

his father became depressed, began drinking, and became abusive, and that in 2012 he disappeared from the family. The Petitioner described the difficulties facing his mother and him without his father and explained that in 2018 he and his mother were called for an interview based on the 2007 adjustment application, but his father did not attend. The Petitioner stated that he learned at the interview that since his father was the principal applicant the application had been abandoned and the USCIS interviewer suggested filing a VAWA petition. The Petitioner asserted that as a direct result of his father's abandonment he was unable to obtain lawful residence.

On appeal the Petitioner contends that the VAWA petition denial is conflicting because he filed the petition when instructed by a USCIS officer do so and that as a consequence he has lost opportunity for DACA.[1] The Petitioner argues that processing delays for the 2007 adjustment application filing caused his current situation, maintains that he has had no interaction with his father since 2012 and does not know his whereabouts, and suggests that the USCIS Policy Manual provides how someone in his situation can be granted permanent residence.

Although we sympathize with the Petitioner's circumstances, the only issue before us on appeal is whether he is eligible for immigrant classification under VAWA. As indicated by the Director, and as we can confirm, a search of USCIS records does not provide evidence that the Petitioner's father has ever obtained U.S. citizenship or adjusted status to that of lawful permanent resident. The Director correctly determined that the Petitioner is not eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.

[1] Deferred Action for Childhood Arrivals