U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21084157

Date: JUN. 10, 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 child of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iv). 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 relationship, and his corresponding eligibility for immigrant classification. On appeal, the Petitioner submits a brief and asserts his eligibility. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the child of a U.S. citizen may self-petition for immigrant classification. The child must be unmarried, less than 21 years of age, and otherwise qualify as the abuser's child. *See* section 101(b)(1) of the Act; 8 C.F.R. § 204.2(e)(1)(ii). For a child self-petitioner or derivative, age is frozen at the time of filing. *See* section 204(a)(1)(D) of the Act.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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 to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner, a citizen Mexico, filed his VAWA petition as the self-petitioning stepchild of a United States citizen, V-G-[1]. The Director denied the petition, determining that the Petitioner was over the age of 21 when his VAWA petition was filed, and was therefore unable to establish a qualifying relationship with V-G-. The Petitioner was born in [redacted] 1997, and his VAWA petition was received in October 2019; at the time, the Petitioner was 22 years old.

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

On appeal, the Petitioner argues that he qualifies under the Child Status Protection Act (CSPA) to have his age frozen as of the filing of a Form I-130, Petition for Alien Relative, which was filed on his behalf by V-G- in January 2011, when the Petitioner was 14. The Petitioner cites section 201(f)(1) of the Act, which was amended by the CSPA, which provides that the age of the beneficiary of a petition to classify a noncitizen as an immediate relative is determined on the date on which the petition is filed. The Petitioner further cites 7 *USCIS Policy Manual*, A.7(C)(2), https://www.uscis.gov/policymanual, which states, "[f]or IRs (immediate relatives) and IR self-petitioners or derivatives under VAWA, a child's age is frozen on the date the Form I-130 or Form I-360 is filed, respectively." Finally, the Petitioner cites 8 C.F.R. § 204.2(h)(2), which states that "a self-petition filed under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), [or] 204(a)(1)(B)(iii) of the Act based on the relationship to an abusive citizen or lawful permanent resident of the United States will not be regarded as a reaffirmation or reinstatement of a petition previously filed by the abuser. A self-petitioner who has been the beneficiary of a visa petition filed by the abuser to accord the self-petitioner immigrant classification as his or her spouse or child, however, will be allowed to transfer the visa petition's priority date to the self-petition. The visa petition's priority date may be assigned to the self-petition without regard to the current validity of the visa petition."

Notably in the Petitioner's arguments, there is no relevant statute, regulation, or precedent decision cited which states that the Petitioner's age at the time of filing the Form I-130 on his behalf will be carried over to a VAWA petition. The USCIS Policy Manual section cited by the Petitioner clearly states that the age is frozen at the time of filing the Form I-130 *or* the Form I-360 *respectively* (emphasis added), therefore indicating that the age at the time of filing a Form I-130 does not carry over to the filing of a Form I-360. 7 *USCIS Policy Manual*, A.7(C)(2), https://www.uscis.gov/policymanual. Further, 8 C.F.R. § 204.2(h)(2) is not informative in the Petitioner's case. This regulation discusses the assignment of priority dates to visa petitions and does not state that a self-petitioner's age also carries over with the priority date. Therefore, as the Petitioner was 22 years old at the time of filing his VAWA self-petition, we do not find that he has met his burden of establishing a qualifying relationship with a U.S. citizen for purposes of immigration classification under section 204(a)(1)(A)(iv) of the Act. The petition will therefore remain denied.

The Director further determined that the Petitioner had not demonstrated that he had provided sufficient evidence of good moral character, as required by section 204(a)(1)(A)(iv) of the Act. [2] As the Petitioner's inability to establish that he had a qualifying relationship is dispositive of his appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments on this issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.

[2] The Director's decision also noted, as an additional ground for denial, that the qualifying relationship between V-G- and the Petitioner's mother resulted in divorce prior to the filing of the Petitioner's VAWA self-petition. However, since the time of the denial, USCIS has accepted that if the marriage that created the step-relationship is terminated due to divorce, a stepchild remains eligible to self-petition. *See Arguijo v. USCIS*, 991 F.3d 736, 739-40 (7th Cir. 2021) (holding that divorce does not terminate a stepchild relationship for the purposes of eligibility for a VAWA self-petition). We withdraw the Director's determination in this respect.