U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24727083

Date: FEB. 28, 2023

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 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 Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish that she filed her VAWA petition within two years following the termination of her marriage to her U.S. citizen spouse. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that she has established eligibility for the benefit sought. 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.

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). Amongst other requirements, a petitioner who is divorced from their U.S. citizen spouse may file a self-petition only up to two years following the termination of a qualifying marriage. Section 204(a)(1)(A)(iii)(II)(CC) of the Act. Petitioners may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of 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 record reflects that the Petitioner married M-D-P-,[1] a U.S. citizen, in 2011. In March 2020, the Petitioner filed a VAWA petition based on this marriage. The Director denied the VAWA petition, concluding that the Petitioner had not established a qualifying relationship to a U.S. citizen because the record indicated that her marriage was terminated in [redacted] 2013. Because the Petitioner could not establish that a qualifying relationship within two years following the termination of her marriage, the Director found that she was also unable to demonstrate eligibility for immigrant classification under sections 201(b)(2)(A)(i) of the Act.

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

On appeal, the Petitioner asserts that she and M-D-P- were domiciled in Tennessee in 2013, and she contends that because they were domiciled in Tennessee, Tennessee family courts would have jurisdiction over their marriage in order to affect a legal dissolution. She maintains that Tennessee family courts did not intervene in their marriage, they were not legally divorced in [redacted] 2013, and there is no evidence of divorce proceedings in Tennessee public records.

Here, the record contains an [redacted], 2013 order, entitled Final Judgement of Dissolution of Marriage (divorce decree), issued by the Circuit Court of the Ninth Judicial Circuit of [redacted] County, Florida. The divorce decree, which identifies the Petitioner as the respondent and M-D-P- as the petitioner, provides the following:

> After a Default having been regularly entered by the Clerk of this Court upon the Respondent's failure to answer or otherwise plead after a Diligent Search, and the Court having heard testimony of the Petitioner and being otherwise duly advised in the premises, [t]he court finds and decides as follows: 1. Jurisdiction. The court has jurisdiction over the parties and subject matter of this action. 2. Residence. At least one of the parties has been a resident of Florida for more than six (6) months before the commencement of this action. 3. The marriage of the parties is irretrievably broken . . . .

As the record contains a divorce decree, issued seven years before the filing of her VAWA petition that indicates that M-D-P- was domiciled in Florida and had been for at least six months when the divorce decree was entered, the Petitioner has not met her burden of establishing a qualifying relationship to a U.S. citizen within two years of filing her VAWA petition, as required. Consequently, she has not demonstrated the requisite qualifying relationship for VAWA classification.[2] The petition will therefore remain denied.

ORDER: The appeal is dismissed.

[2] The Director also determined the Petitioner did not establish that she legally terminated a prior marriage or that she was battered or subjected to extreme cruelty. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve these additional issues. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (noting that "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).