



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28859394

Date: OCT. 20, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)

The Petitioner seeks immigrant classification as the abused spouse of a lawful permanent resident (LPR) under the 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 Amerasian, Widow(er), or Special Immigrant (VAWA petition), concluding that the record did not establish that she filed her VAWA petition within two years following the termination of the marriage. 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 of an LPR may self-petition for immigrant classification if they demonstrate they entered into marriage with the LPR in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their LPR spouse. Section 204(a)(1)(B)(ii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). If a petitioner is divorced from their LPR spouse, they may only file a VAWA petition up to two years following the termination of the marriage. Section 204(a)(1)(B)(ii)(II)(aa)(CC)(bbb) 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 her LPR spouse, A-F-,¹ in 2010, and the couple divorced in 2012. The Petitioner filed her VAWA petition in 2020 based on a claim of abuse by A-F-. The Director denied the VAWA petition because the Petitioner did file her VAWA petition within two years following the termination of her marriage to her LPR spouse, as section 204(a)(1)(B)(ii)(II)(aa)(CC)(bbb) of the Act requires.

¹ We use initials to protect privacy.

On appeal, the Petitioner does not address the Director's ground for denial. She submits additional evidence relating to the abuse she suffered during her marriage to A-F-, including a letter from her therapist, letters of support, photographs, and a personal statement. Also, the Petitioner submits financial records and copies of her marriage certificate and judgment of divorce. We acknowledge the Petitioner's evidence and her claims of abuse during her marriage to A-F-.

However, the reason for the Director's denial was that the Petitioner did not meet the requirement of filing her VAWA petition within two years after her divorce from A-F-. This is a statutory requirement that we are unable to waive, and the Petitioner does not provide any evidence or argument that it does not apply in her case.

Therefore, the Petitioner cannot meet the requirements for VAWA classification because she filed her VAWA petition in 2020, more than two years after her marriage with A-F- ended in 2012. Section 204(a)(1)(B)(ii)(II)(aa)(CC)(bbb) of the Act. Consequently, she has not demonstrated the requisite qualifying relationship for VAWA classification. Therefore, the petition must remain denied.

ORDER: The appeal is dismissed.