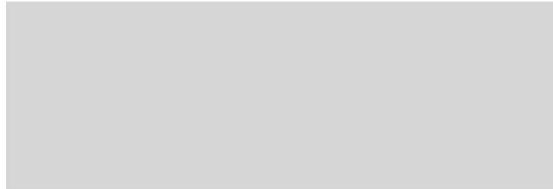


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

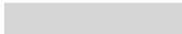
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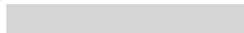
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FILE #:



PETITION RECEIPT #:



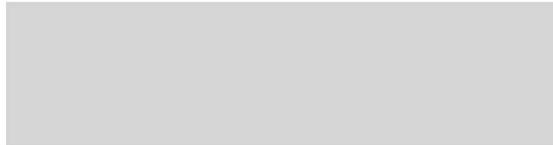
IN RE:

Petitioner:



PETITION: Petition for Immigrant Abused Child Pursuant to Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iv)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center (the director), denied the immigrant visa petition and Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before us again on a motion to reconsider. The motion will be denied.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(iv) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iv), as an alien child battered or subjected to extreme cruelty by her United States citizen stepparent. The only remaining issue after the petitioner's appeal is that the petition was filed after the petitioner reached the age of 21 and she has not shown that her stepmother's abuse was a central reason for her filing delay.

Relevant Law and Regulations

Section 101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1), defines a child as, in pertinent part:

an unmarried person under 21 years of age who is . . . (B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of 18 years at the time the marriage creating the status of stepchild occurred.

Section 204(a)(1)(A)(iv) of the Act provides:

An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who resides, or has resided in the past, with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent.

Section 204(a)(1)(D)(v) of the Act further states:

For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) or (B)(iii) as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age and the individual shows that the abuse was at least one central reason for the filing delay. . . .

Section 204(a)(1)(J) of the Act prescribes:

In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), or in making determinations under subparagraphs (C) and (D), the [Secretary of Homeland Security] shall consider any credible evidence relevant to the petition. The

determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Secretary of Homeland Security].

The eligibility requirements are further explicated in the regulation at 8 C.F.R. § 204.2(e)(1), which states, in pertinent part:

(i) A child may file a self-petition under section 204(a)(1)(A)(iv) or 204(a)(1)(B)(iii) of the Act if he or she: (A) Is the child of a citizen or lawful permanent resident of the United States; (B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship. . . .

(ii) *Parent-child relationship to the abuser.* The self-petitioning child must be unmarried, less than 21 years of age, and otherwise qualify as the abuser's child under the definition of child contained in section 101(b)(1) of the Act Termination of the abuser's parental rights or a change in legal custody does not alter the self-petitioning relationship provided the child meets the requirements of section 101(b)(1) of the Act.

The evidentiary guidelines for a self-petition under section 204(a)(1)(A)(iv) of the Act are further explicated in the regulation at 8 C.F.R. § 204.2(e)(2), which states, in pertinent part:

(ii) *Relationship.* A self-petition filed by a child must be accompanied by evidence of citizenship of the United States citizen or proof of the immigration status of the lawful permanent resident abuser. It must also be accompanied by evidence of the relationship. Primary evidence of the relationship evidence between . . . (E) A self-petitioning stepchild and an abusive stepparent is the child's birth certificate issued by civil authorities, the marriage certificate of the child's parent and the stepparent showing marriage before the stepchild reached 18 years of age, and evidence of legal termination of all prior marriages of either parent, if any

The regulation at 8 C.F.R. § 204.2(e)(2)(i) further states:

Self-petitioners are encouraged to submit primary evidence whenever possible. The Service will consider, however, any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

Pertinent Facts and Procedural History

The petitioner is a citizen of Ukraine who was born on [REDACTED]. The petitioner entered the United States as a visitor on August 8, 2000. On April 29, 2006, when the petitioner was 17 years old, her father married N-L¹, a U.S. citizen. The petitioner filed the instant Form I-360 on October 17, 2011 when she was 23 years old. The director denied the petition and the petitioner timely appealed. On appeal, we determined that the petitioner demonstrated eligibility as the stepchild

¹ Name withheld to protect the individual's identity.

of a U.S. citizen, but that she failed to demonstrate that the abuse was at least one central reason for her delay in filing the instant petition. On motion, the petitioner submits a brief.

Motion to Reconsider

The petitioner's submission does not meet the requirements for a motion to reconsider. The petitioner does not cite binding precedent decisions or other legal authority establishing that the AAO's prior decision incorrectly applied the pertinent law or agency policy, nor does she show that the AAO's prior decision was erroneous based on the evidence of record at the time. Consequently, the motion to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4) (a motion that does not meet the applicable requirements shall be denied).

On motion, the petitioner asserts that we erred in finding that she did not discuss the connection between the abuse and the filing delay in her previously submitted documents. We have reviewed the petitioner's personal statements submitted in support of the instant Form I-360 self-petition, dated October 5, 2011, June 11, 2013, and October 28, 2013. The petitioner did not address the reasons that she was unable to timely file her Form I-360 self-petition in any of the statements. The other evidence of record does not establish the cause of the delay. On motion, the petitioner has not submitted any further personal statement providing a specific explanation for the delay. In her brief, the petitioner states that her stepmother's abuse was ongoing at the time she moved out of the home, and that she filed at the earliest possible date after her father and stepmother divorced. These general statements do not sufficiently establish how the abuse was related to the petitioner's untimely filing. Consequently, the petitioner has failed to demonstrate that her stepmother's abuse was at least one central reason for the filing delay. As the petitioner has not shown that our prior decision was erroneous, the motion to consider will be denied. 8 C.F.R. § 103.5(a)(4).

Conclusion

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. The motion to reconsider will be denied and our prior decision will be affirmed.

ORDER: The motion to reconsider is denied. The August 28, 2014 decision of the Administrative Appeals Office is affirmed. The petition remains denied.