



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

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

MATTER OF A-W-

DATE: NOV. 16, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on findings that the evidence did not establish that the Petitioner had a qualifying relationship with her U.S. citizen spouse. Upon review of the record, the Petitioner was granted lawful permanent resident status in 2004. The record contains no evidence that the Petitioner has lost her lawful permanent resident status. Rather, the record indicates that the Petitioner is in removal proceedings and her next hearing date in Immigration Court is on January 26, 2016.

Lawful permanent resident status terminates upon entry of a final administrative order of removal. 8 C.F.R. § 1.2 (noting the definition of “lawfully admitted for permanent residence”). *See also Etuk v. Slattery*, 936 F.2d 1433, 1447 (2d Cir. 1991) (citing *Matter of Gunaydin*, 18 I&N Dec. 326 (BIA 1982)). Lawful permanent residency may also be lost through abandonment, rescission, or relinquishment. *See id.* at 327 n.1. However, none of those circumstances exist in this matter. Consequently, the Petitioner remains a lawful permanent resident and as such, she was not eligible to file the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant and the issues in this proceeding are moot.

In these proceedings, the Petitioner bears the burden of proving eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369. Here, the Petitioner has not met that burden. Accordingly, the appeal is dismissed.

ORDER: The appeal is dismissed.

Cite as *Matter of A-W-*, ID# 14837 (AAO Nov. 16, 2015)