



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

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

MATTER OF K-B-

DATE: SEPT. 2, 2015

CERTIFICATION OF VERMONT SERVICE CENTER DECISION

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

The Petitioner seeks immigrant classification as the abused child of a U.S. citizen. *See* section 204(a)(1)(A)(iv) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iv). The Acting Director, Vermont Service Center, denied the petition and the Petitioner filed a timely appeal. We withdrew the Director's decision and remanded the petition to the Director for issuance of a request for evidence (RFE) and a new decision. The matter is now before us on certification. The Director's decision of April 16, 2015 is affirmed, and the appeal is dismissed.

The Director denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, based on a finding that the Petitioner did not establish a qualifying parent-child relationship with a U.S. citizen and corresponding eligibility for immediate relative classification because the Petitioner's mother and U.S. citizen stepfather divorced before the petition was filed. In our September 26, 2014 decision on appeal, we found that the Director erred in concluding that the divorce of the Petitioner's mother and stepfather automatically terminated the qualifying relationship between the Petitioner and his stepfather. We remanded the matter to the Director for consideration of whether the Petitioner had a continuing relationship with his stepfather between the date of the divorce and the date the Petitioner filed the Form I-360. Our previous decision is incorporated here by reference.

On [REDACTED] 2000, the Petitioner's mother married S-M<sup>1</sup>, a U.S. citizen. The Petitioner's mother and stepfather divorced on [REDACTED], 2007, when the Petitioner was [REDACTED] years old. The Petitioner filed the Form I-360 self-petition on January 20, 2012, when he was [REDACTED] years old.

In response to the Director's RFE, the Petitioner submitted a declaration, dated February 2, 2015, in which he stated that he resumed a relationship with his stepfather "possibly two years ago," which would be approximately February 2013. The Petitioner claimed that, prior to that time, he had not spoken with his stepfather since the Petitioner, his mother, and his half-brothers moved out of the house in 2008. According to the Petitioner, he did not speak to his stepfather prior to 2013 because of "the history" between them, because he did not know what to say, and because he and his

---

<sup>1</sup> Name withheld to protect the individual's identity.

stepfather “didn’t have numbers or any real means of communication.” The Petitioner indicated that he and his stepfather both visited one of the Petitioner’s half-brothers in the hospital, and at that time the Petitioner told his stepfather that he “wanted to start anew.” The Petitioner asserted that he has continued to have a relationship with his stepfather since then.

Although the Petitioner resumed a relationship with his stepfather in approximately February 2013, the evidence does not demonstrate that he had a stepchild-stepparent relationship with his stepfather at the time he filed his Form I-360 on January 20, 2012. The Petitioner’s own declaration indicated that he had no communication or relationship with his stepfather between 2008 and 2013. Therefore, the Petitioner did not establish that he had a qualifying relationship with his stepfather when he filed his petition. Accordingly, based on the application of Section 204(a)(1)(A)(iv) of the Act, he is not eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act.

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 (AAO 2010). Here, the Petitioner has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The Director’s decision of April 16, 2015 is affirmed, and the appeal is dismissed.

Cite as *Matter of K-B-*, ID# 14098 (AAO Sept. 2, 2015)