U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-P-M-L-

DATE: JULY 28, 2016

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) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not have a qualifying relationship with his ex-wife, and therefore was ineligible for immigrant classification based on that relationship, because he and his ex-wife divorced more than two years prior to the Petitioner's filing of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition).

The matter is now before us on appeal. On appeal, the Petitioner does not submit a brief or additional evidence. We will summarily dismiss the appeal.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, Notice of Appeal or Motion (notice of appeal), the Petitioner indicated that a brief and/or additional evidence would be submitted within 30 days, or by December 18, 2015. To date, we have received no further brief or evidence from the Petitioner.

In this case, in a paragraph submitted with the notice of appeal, the Petitioner provides no legal or factual basis for the appeal. He indicates that he filed the VAWA petition less than a month after the two-year period after his divorce because he was still obtaining documents, some of which were under the control of his former spouse. However, as the Director noted, the Act states that a petitioner who is no longer married to the abusive United States citizen may only self-petition if he demonstrates "a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse." Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(aa)(CC)(ccc). The evidence shows that the Petitioner filed the VAWA petition more than two years after his divorce,

and the Act does not provide any exceptions to this requirement. The Petitioner fails to identify any specific, erroneous conclusion of law or statement of fact in the Director's decision. Consequently, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. 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.

ORDER: The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of J-P-M-L-*, ID#17565 (AAO July 28, 2016)