

Immigration Court: BIA**Case:** *Matter of B-S-H-*, 29 I&N Dec. 313 (BIA 2025)**Date:** November 19, 2025**Adjudicated by:** Montante, Owen, Gillies**Opinion:** Montante

Tags: Motions to reopen, extraordinary circumstances / extreme hardship waiver, VAWA applicants, time and numerical limitations

Question Presented: Does the extraordinary circumstances / extreme hardship waiver for VAWA applicants cover both the time AND numerical limitations for Motions to Reopen?

Holdings: For VAWA applicants, the extraordinary circumstances / extreme hardship waiver ONLY applies to the time limitation for Motions to Reopen, NOT the numerical limitations.

Rationale: Language of statute limits respondent to ONE motion to reopen under VAWA.

Facts: (313-314): India. Lost case at EOIR, appealed, got married during appeal. Claimed abuse by USC spouse and filed VAWA self-petition. Tried once to reopen re. the VAWA with not enough evidence; this is the response to the second try.

Procedural History:

- **2016:** removal proceedings initiated; IJ denied applications.
- **??:** Respondent appealed IJ's decision AND got married to a USC.
- **11/22/22:** BIA affirmed IJ's decision.
- **11/2023:** Respondent filed motion to reopen based on pending VAWA self-petition & special-rule cancellation eligibility.
- **10/10/24:** BIA denies motion to reopen because R had not established VAWA eligibility
- **11/2024:** Respondent filed a motion to reconsider/reopen

Appeals to Statute & Precedent:

- **INA § 240A(b)(2)(A)(i), (v); 8 U.S.C. § 1229b(b)(2)(A)(i), (v):** Special rule cancellation of removal for victims of abuse by USC/LPR spouse or parent.
- **Violence Against Women Act (VAWA), enacted as Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 1902 ("VAWA")**
- **8 C.F.R. § 240.2(c)(6)(ii), (iv) (2025):** providing that a prima facie determination does not relieve the VAWA self-petitioner of the burden of providing additional evidence in support of the petition, does not establish eligibility for the underlying petition, will not be considered evidence in support of the petition, will not be construed to make a determination on the credibility or probative value of any evidence submitted along with the petition, and will not relieve the self-petitioner of his or her burden of complying with all of the evidentiary requirements for obtaining relief.
- **INA § 240(c)(7)(C)(i); 8 U.S.C. § 1229a(c)(7)(C)(i); 8 C.F.R. § 1003.2(c)(2):** A motion to reopen must be filed within 90 days of the final administrative order of removal

- **INA § 240(c)(7)(A); 8 U.S.C. § 1229a(c)(7)(A):** Only one motion to reopen allowed (but you can file an extra one if it's now for VAWA relief).
- **INA § 240(c)(7)(C)(iv)(III), 8 U.S.C. § 1229a(c)(7)(C)(iv)(III):** . . . except WRT VAWA relief, which gets 1 year to respond. ALSO, "the [A.G.] may, in the exercise of discretion, waive this 1-year time limitation in the case of a respondent who demonstrates 'extraordinary circumstances or extreme hardship to the respondent's child.'" 315
- ***Matter of G-D-*, 22 I&N Dec. 1132, 1133-34 (BIA 1999):** sua sponte authority to reopen is a discretionary authority to be invoked sparingly, as "an extraordinary remedy reserved for truly exceptional situations."

Discussion:

- "As this is the respondent's second motion to reopen to apply for relief pursuant to VAWA, it is number barred. This numerical bar cannot be waived by the statutory provision [for extraordinary circumstances or extreme hardship to the respondent's child]." 317
- "The Board's sua sponte authority is not 'a general remedy for any hardships created by enforcement of the time and number limits in the motions [statute and] regulations.'" (quoting *Matter of G-D-*)

Commentary:

- BIA rejected the Respondent's first motion to reopen because he only included the prima facie determination letter and no additional evidence regarding the VAWA application. 314
 - "The Board noted that the VAWA self-petition was still pending and does not indicate that USCIS will approve the self-petition." 314
- "Disagreement with the result is not sufficient to establish error in our prior decision." 315