



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

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

In Re: 16902018

Date: FEB. 9, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish his good moral character, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, the petitioner must establish their good moral character. Section 204(a)(1)(A)(iii)(II)(bb) of the Act. Primary evidence of good moral character is the petitioner's affidavit which should be accompanied by a local police clearance or a state-issued criminal background check from each location where the petitioner has resided for at least six months during the 3 years immediately preceding the filing of the VAWA petition. 8 C.F.R. § 204.2(c)(2)(v). If police clearances, criminal background checks, or similar reports are unavailable for some or all locations, the petitioner may include an explanation and submit other evidence with their affidavit. *Id.* U.S. Citizenship and Immigration Services (USCIS) will also consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the petitioner's good moral character. *Id.*

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). USCIS determines, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

In this case, the Petitioner filed his VAWA petition in April of 2018, including several letters that described him as a hard worker, good father, and great friend. The Director issued a request for evidence (RFE), seeking, among other things, additional documentation to establish the Petitioner's good moral character. The Director specified that a criminal records search indicated that the Petitioner had a criminal history that included multiple traffic violations as well as the following offenses: 1) [redacted] 1999 (sex assault third degree and assault third degree); 2) [redacted] 1999 (sex assault and assault); 3) [redacted] 2000 (simple assault); 4) [redacted] 2001 (disorderly conduct); 5) [redacted] 2005 (assault third degree); and [redacted] 2007 (assault third degree). The Director requested an affidavit from the Petitioner, court records showing the disposition of all prior arrests and evidence the Petitioner complied with all requirements listed in such dispositions, and any other evidence of positive factors, such as community involvement.

The Petitioner responded to the RFE with additional evidence. He submitted a sworn statement stating that he married his second wife, D-L-,¹ in [redacted] 2007 and remains married to her. He described D-L- as being very possessive, controlling, and "always had an excuse to fight with [him]." According to the Petitioner, on [redacted] 2005, D-L- showed up at his workplace "and started to destroy [his] radio and other things" because he told her he did not have any money to give her. He maintained that she hit him in the eye with a rock, which he picked up and threw back at her, hitting her leg. The Petitioner claimed he finished his day at work, but when he got home, D-L- started to fight with him again, so he called the police and they were both arrested. The Petitioner also submitted a notarized statement from D-L- in which she stated that she "would like to take all the blame for all the trouble [she] caused [the Petitioner]." She claimed that in 2005, she started a fight with him at his job site and threw a rock at him, hitting him in the face.

In addition, the Petitioner submitted: a letter from the [redacted] Colorado, Sheriff's Office, indicating the Petitioner has had no contact with the [redacted] Sheriff's Office; and the results of a records search from the [redacted] Colorado, attached with a copy of the Petitioner's mugshots from his 2005 arrest. The records search listed four dates for offenses: 1) [redacted] 2005 (third degree assault); 2) [redacted] 2010 (red light violation, no car insurance, habitual traffic offender); 3) [redacted] 2010 (operated an uninsured motor vehicle); and 4) [redacted] 2012 (aggravated driving with revoked license, careless driving, and two counts of driving under the influence).

The Petitioner also submitted a letter from his brother describing D-L-'s "aggressions" towards the Petitioner, and a letter from the owner of a construction business who described the Petitioner as a "law-abiding person" who "is just not the guy you have to wonder if he's in jail or in trouble with the law."

The Director denied the VAWA petition. The Director found that although the Petitioner's affidavit provided some insight into his 2005 arrest, there was insufficient documentation surrounding the incident. With respect to the results from the records search, the Director found that the report omitted the Petitioner's 1999, 2000, and 2001 incidents, and revealed additional criminal history, none of which he provided additional evidence for or addressed in his affidavit. In addition, the Director found

¹ We use initials to protect the identities of the individuals in this case.

that the third-party affidavits in the record did not indicate that the affiants could knowledgeably attest to the Petitioner's criminal history. Finally, the Director noted that there was no additional evidence addressing the Petitioner's good moral character, despite flexibilities in filing date requirements that were provided.

On appeal, the Petitioner submits a brief and additional evidence, including but not limited to, a new affidavit, a photocopy of a letter from D-L-, a letter from the [redacted] Colorado, Police Department indicating the Petitioner has no criminal history with its police department (excluding any traffic or parking violations), and copies of court documents and police reports. In his affidavit, the Petitioner explains that on [redacted] 1999, D-L- tried to hit him and as he pulled away from her, "[his] hand swung, and [he] brushed her pelvic area with his hand and stepped on her foot" According to the Petitioner, the sex assault charge was dismissed. Regarding the [redacted] 2000 incident, the Petitioner stated he was charged with domestic violence, harassment, and disorderly conduct, but that the harassment charge was dismissed. For both incidents, the Petitioner maintains that he complied with probation, and domestic violence and parenting classes. He maintains that D-L- continues to harass him and threaten him by saying she will call immigration authorities on him. The letter from D-L- stated that for the 1999 incident, they "did push and argue," and she took responsibility for her part.

After a careful review of the entire record, including the new evidence submitted on appeal, we find that the Petitioner has not met his burden of establishing his good moral character. Although the Petitioner now submits some court documents and a police report for the 2005 incident,² the record continues to lack sufficient evidence addressing the Petitioner's entire criminal history. For instance, the Petitioner does not provide any details regarding his [redacted] 2000 arrest for which court records indicate he was sentenced to 15 days imprisonment and two years of probation. D-L- also made no mention of this 2000 arrest despite addressing other incidents. In addition, the Petitioner has not discussed his 2001 arrest for disorderly conduct or his numerous traffic offenses. According to court documents submitted on appeal, in [redacted] 2010, the Petitioner pled guilty to driving after his license had been revoked. Two years later, in [redacted] 2012, he pled guilty to aggravated driving with a revoked license and was sentenced to 180 days imprisonment and two years of probation.³ We find that the Petitioner's numerous, serious, and repeated offenses spanning from 1999 through 2012 show a disregard for the laws of the United States. To the extent counsel contends on appeal that the Petitioner's criminal history is directly related to his victimization, we acknowledge that the record includes evidence of D-L-'s criminal history and that she admitted to starting fights and calling the police on the Petitioner. Nonetheless, considering the record in its entirety, we do not find the Petitioner has established his good moral character, as required. Aside from D-L-, as the Director noted, the affidavits in the record were not from responsible persons who knowledgeably attested to the Petitioner's good moral character as they made no mention of the Petitioner's criminal history. *See* 8 C.F.R. § 204.2(c)(2)(v). No other additional information has been submitted.

The Petitioner has not met his burden of establishing his good moral character, as required by section 204(a)(1)(A)(iii)(II)(bb) of the Act. The petition will remain denied.

² Court records show the Petitioner was sentenced to 75 days imprisonment and 18 months of probation for the 2005 incident.

³ The record shows that the District Attorney dismissed two counts of driving under the influence and one count of careless driving.

ORDER: The appeal is dismissed.