



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

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

In Re: 18168005

Date: JUL. 5, 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 he is a person of good moral character, as required. The matter is now before us on appeal. Upon *de novo* review, we will remand the matter to the Director.

**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 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.

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). 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.* 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

The Petitioner filed his VAWA petition in April 2018. On March 29, 2021, the Director denied the petitioner, concluding that the Petitioner had not established good moral character. Specifically, the Director noted that a Request for Evidence (RFE) has been issued in August 2020, asking the Petitioner to submit additional evidence of his good moral character, including documentation of his criminal record. The Director then noted that the Petitioner had not submitted the requested court documentation. The Director therefore concluded that the record was insufficient to establish the Petitioner's good moral character.

On appeal, the Petitioner asserts that court documentation to establish good moral character was submitted in response to the RFE<sup>1</sup> and resubmits them for review. Because the Petitioner submits evidence that directly addresses the Director's sole reason for denying the petition, we find it appropriate to remand the matter to the Director to consider the evidence in the first instance to determine whether the Petitioner has established his good moral character and has otherwise established his eligibility for immigrant classification as the abused spouse of a U.S. citizen under section 204(a)(1)(A)(iii) of the Act.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

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<sup>1</sup> The record indicates that the Director received a response to the RFE on October 19, 2020; the documentation in that response did not appear to include any court documentation, as noted by the Director. The record also indicates that on November 4, 2020, the Vermont Service Center received another response to the RFE; the documentation in that response did appear to include court documents, medical documentation, and additional letters in support of the Petitioner.