



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

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

In Re: 20964888

Date: JUN. 07, 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 in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). Upon *de novo* review, we will remand the appeal.

I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, among other things, a petitioner must establish their good moral character and that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(bb) and (dd) 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). While we must consider any credible evidence relevant to the VAWA petition, we determine, 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). We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

II. ANALYSIS

The record reflects that the Petitioner is a native and citizen of Canada who entered the United States in 2001 as a nonimmigrant visitor and in 2016 he married a U.S. citizen with whom he claims he resided from February 2015 to November 2018. In 2019 the Petitioner filed his VAWA petition with personal affidavits, letters of support, criminal records, financial records, civil documents, and photographs. The Director denied the petition, finding that the Petitioner did not provide satisfactory evidence to demonstrate that he was a person of good moral character. The Director specifically referred to records that indicated the Petitioner was charged with possession of cocaine, tampering

with or fabricating physical evidence, and resisting officer-obstruction without violence. The Director acknowledged that the possession of cocaine charge was dismissed but concluded that court documents submitted by the Petitioner in response to a request for evidence lacked final dispositions for the other two charges and that third-party affidavits alone were not sufficient evidence of good moral character.

On appeal, the Petitioner argues, through counsel, that he provided the only documentation he had to show that charges were not filed by the state attorney. He contends that the “no info” instruction from the state attorney to the Clerk of Court shows that no charges were being filed and that surety bonds posted on the counts were cancelled because the changes were no longer open. With the appeal the Petitioner submits a Motion to Clarify Court Disposition, an Agreed Order on Motion to Clarify Court Disposition from a Florida circuit court, electronic certified court records, bond discharge slips, a legal decision from the Florida Fourth District Court of Appeals addressing “no information” as used in prosecutions, and a Frequently Asked Questions printout from the Florida Office of the State Attorney.

As on appeal the Petitioner submits relevant evidence addressing the deficiency identified by the Director, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has demonstrated good moral character and is otherwise eligible for immigrant classification under VAWA.

ORDER: The decision of the Director is withdrawn. The matter is remanded for consideration of new evidence and issuance of a new decision.