



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

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

In Re: 21383433

Date: JUN. 15, 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 Abused Spouse or Child of U.S. Citizen (VAWA petition). The matter is now before us on appeal. On appeal, the Petitioner submits evidence and a statement asserting her eligibility. The Administrative Appeals Office reviews the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand this matter for further proceedings consistent with this decision.

**I. LAW**

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. The petitioner must also show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) 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 self-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).

**II. ANALYSIS**

The Petitioner, a native and citizen of Mexico, last entered the United States in May 2007, married R-W-,<sup>1</sup> a U.S. citizen in August 2007, and filed her VAWA petition in July 2019. In denying the VAWA petition, the Director determined that the Petitioner did not establish she is a person of good moral character.

The Director initially reviewed third-party statements and a [redacted] criminal records check and determined that they were insufficient to establish good moral character. Specifically, the Director

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<sup>1</sup> We use initials to protect individual identities.

stated that the statements did not mention or discuss whether the Petitioner has ever been arrested or has a criminal history, and the criminal records check did not cover all the names she has used or may have used. The Director issued a request for evidence (RFE), which included a list of seven names in the record that the Petitioner has used or may have used. The Director stated that any clearances not obtained by fingerprint analysis must establish the investigating agency was aware of these names as well as other names, aliases, and dates of birth the Petitioner may have used. The Petitioner responded to the RFE with third-party statements, a personal statement, tax records, and utility bills, and the Director noted that these documents did not mention or indicate whether the Petitioner has ever been arrested or has a criminal history. The Petitioner also submitted a [ ] County police clearance letter, which did not include all the names listed in the RFE, and the Director again stated that any clearances not obtained by fingerprint analysis must establish the investigating agency was aware of these names as well as other names, aliases, and dates of birth she may have used. Based on the record, the Director determined that the Petitioner did not establish she is a person of good moral character.

On appeal, the Petitioner asserts that she has only used one name in all her official documents, but different versions of her name appear in the record because R-W- filled out her various paperwork due to her limited English proficiency, and police and other public officials misspelled or entered her name incorrectly due to not understanding her. The Petitioner submits an updated police clearance letter from the [ ] County Sheriff's Office which includes six of the seven names listed in the RFE; the only name missing is O-W. The record includes two computerized incident detail report printouts which list the caller as O-W-. The reports reflect that the Petitioner reported R-W- for various forms of harassment and that she is a Spanish speaker. Both reports misspell or incorrectly list R-W-'s name. Based on these facts, the Petitioner's explanation that her name was listed incorrectly as O-W- due to a language barrier, misspelling, or misunderstanding is more likely than not. The Petitioner has now provided a police clearance letter covering six of the seven names listed in the RFE and has established that she has not used the seventh name, O-W-. Furthermore, the Petitioner states that she is a person of good moral character as she stays away from trouble, is kind and serves others, and provides for her children. The record also includes several statements from friends of the Petitioner which detail her good moral character, including one who states on appeal that the Petitioner has not been arrested. Based on the foregoing, the Petitioner has established, by a preponderance of the evidence, that she is a person of good moral character.

We will remand the matter to the Director for consideration of whether the Petitioner has met the remaining VAWA petition eligibility requirements at 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 new decision consistent with the foregoing analysis.