



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

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

In Re: 21122251

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 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 (the Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), and the matter is before us on appeal. Upon *de novo* review, we will remand 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 submit evidence of the relationship in the form of a marriage certificate and proof of the termination of all prior marriages for the petitioner and the abuser. 8 C.F.R. §§ 204.2(b)(2), (c)(2)(ii).

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, among other requirements, that they are a person of good moral character. Section 204(a)(1)(A)(iii)(II)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(F). U.S. Citizenship and Immigration Services (USCIS) evaluates a VAWA petitioner's claim of good moral character on a case-by-case basis, considering the provisions of section 101(f) of the Act and the standards of the average citizen in the community. 8 C.F.R. § 204.2(c)(1)(vii).

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). U.S. Citizenship and Immigration Services (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 record reflects that the Petitioner, a native and citizen of Honduras, married J-O-¹, a U.S. citizen, in [REDACTED] 2017. In July 2019, she filed the instant VAWA petition based on this marriage. The Director denied her petition, determining that she had submitted insufficient evidence to indicate that any previous marriages had been terminated, and the Director could not establish that the Petitioner was in a qualifying relationship. The Director further determined that the Petitioner had not established her good moral character, as her fingerprint results indicated a possible arrest in 2016 related to traffic violations.

On appeal, the Petitioner submits a new affidavit and additional evidence. In the Director's decision, it was noted that the Petitioner had submitted a letter to Immigration and Customs Enforcement (ICE) in 2013 indicating that she feared returning to Honduras because of abuse at the hands of her "ex-husband." The Director's decision noted that the Petitioner had not married J-O- until 2016 and had not submitted evidence of any termination of any previous marriages. The Petitioner did not address the issue in response to the Director's request for evidence (RFE). In her updated statement on appeal, the Petitioner states that "[i]t is common in [her] home country of Honduras to refer to an intimate partner with whom you are living with or share children with as your husband or your wife. For this reason, [she] may have referred to [her] children's father as [her] husband and considered [herself] married." In support of this claim, the Petitioner submits a copy of her "Certificacion Del Estadio Civil" from Honduras, in which the translation states, "[the Petitioner] is single in view of the fact that in this Municipal File is the Original Registration of Birth Certificate that contains his/her life record and of the same it can be verified that there is no marginal note that modifies the marital status" (emphasis removed).²

Regarding the good moral character requirement, the Petitioner's new statement indicates that she "feel[s] terrible about violating immigration laws by entering the country illegally," and continues, "[a]part from [her] traffic violations, [she has] not committed any other crimes." The Petitioner submits copies of all her traffic citations, as well as the police report and dispositions from her arrest in 2016 in [REDACTED] Texas for no Texas driver's license and failure to appear. The charges against the Petitioner were ultimately dismissed. The Petitioner also submits a letter from the [REDACTED] Municipal Court which states that she "has no outstanding balances or cases pending."

The record reflects that the Petitioner has submitted relevant evidence that the Director has not had the opportunity to consider, and we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established that she was in a qualifying relationship, that she is a person of good moral character, and has satisfied the remaining eligibility requirements for immigrant classification under VAWA.

ORDER: The decision of the Director is withdrawn. The matter is remanded to the Director of the Vermont Service Center for the entry of a new decision.

¹ We use initials to protect the privacy of individuals.

² We also note that the Form I-130, Petition for Alien Relative, filed on the Petitioner's behalf by J-O- indicated that she had only been married once.