



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

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

In Re: 13830495

Date: MAR. 30, 2022

Motion on Administrative Appeals Office 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). On appeal, we determined that the Petitioner did not overcome the basis for the Director's denial. The Petitioner has filed a motion to reopen and reconsider our decision. Upon review, we will dismiss the motion.

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. *Id.* § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates 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 Egypt, was admitted to the United States in B-2 nonimmigrant visitor status in March 2000. She married her U.S. citizen spouse, J-H-,¹ in 2000. In May

¹ Initials are used throughout this decision to protect the identity of the individual.

2002, she filed the instant VAWA petition based on her marriage to J-H-. The Director denied the VAWA petition, concluding that the Petitioner had not established the requisite qualifying spousal relationship with a U.S. citizen and corresponding eligibility for immediate relative classification based on that relationship, because the record did not establish the legal termination of her previous marriage in Egypt. The Director further found that the Petitioner had not satisfied the evidentiary requirements to establish her good moral character.

In our previous decision dismissing the Petitioner's appeal, incorporated here by reference, we first determined that the Petitioner demonstrated a qualifying familial relationship as the spouse of a U.S. citizen and corresponding eligibility for immediate relative classification. However, we determined that the Petitioner did not meet the evidentiary requirements for establishing good moral character, as she did not submit her own affidavit and sufficient police clearances from each locality, state, and country of her residence during the three-year period immediately preceding the filing of her VAWA petition. Specifically, the clearance from the [] Police Department was conducted solely based on a search of the Petitioner's name and date of birth of record rather than based on her fingerprints, and it therefore did not cover any other names and dates of birth she has used in the past. The Petitioner also did not submit local police clearances from [] Michigan, one of the places she resided in during the three years prior to filing her VAWA petition, or alternatively, a state-issued criminal background check from Michigan. Lastly, the Petitioner did not proffer police clearances or a similar report from the appropriate authority in Egypt where she also resided during that same period.

On motion, the Petitioner has submitted additional evidence in support of her claim that she meets the good moral character requirement. First, she provides her own affidavit as primary evidence of good moral character. Second, she includes her criminal background check from Egypt indicating "no recorded criminal sentences." However, the Petitioner did not submit an updated police clearance from the [] Police Department or a local police clearance from [] Michigan, although she claims on motion that she did not reside in []. In the alternative, the Petitioner submits a document from the Internet Criminal History Access Tool (ichat). Her ichat report provides "[a] search of Michigan's criminal history file has not located a criminal record that exactly matches the information that you have provided." The ichat report lists one name and date of birth for the Petitioner. However, the Petitioner has used multiple names and dates of birth and there is no evidence that an ichat search was run for all her other names and dates of birth, or that a fingerprint check was performed in the alternative, to establish she has no criminal record in Michigan. Therefore, although the Petitioner has provided her own affidavit and a police clearance from Egypt on motion, she has not established her good moral character by submitting a fingerprint check or similar state-issued background check reflecting all names and dates of birth she has used.

As the Petitioner has not submitted new evidence sufficient to establish good moral character, she has not met the requirements for a motion to reopen. Furthermore, the Petitioner has not established that our prior decision was based on an incorrect application of law or policy. Therefore, she has not met the requirements for a motion to reconsider.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.