



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

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

In Re: 19976246

Date: MAY 3, 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 Petitioner's Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition). The Petitioner filed an appeal of that decision to our office. We review 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 the matter to the Director.

I. LAW

Immigrant classification under VAWA may be granted to an individual subjected to battery or extreme cruelty by their U.S. citizen spouse if that individual demonstrates, among other requirements, that they are a person of good moral character. Section 204(a)(1)(A)(iii) of the Act. Primary evidence of good moral character is the VAWA self-petitioner's affidavit, which should be accompanied by local police clearances or state-issued criminal background checks from where the petitioner resided during the three years before filing the VAWA petition. 8 C.F.R. § 204.2(c)(2)(v).

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).

II. ANALYSIS

The Petitioner is a native and citizen of Nigeria who filed his VAWA petition in July 2019 based on his marriage to D-W-,¹ a U.S. citizen. The Director denied the petition, determining that the Petitioner did not establish that he was a person of good moral character, as both the statute and the regulation require. The Director explained that although the Petitioner had submitted a personal affidavit that vaguely referred to his good moral character, it did not clearly state that he had no criminal record in

¹ Initials are used to protect the privacy of individuals.

the jurisdiction where he resided during the three years before filing the VAWA petition. The Director ultimately determined that the Petitioner submitted no evidence to establish he had good moral character from October 2016, when he entered the United States, through July 2019, when he filed the VAWA petition.

On appeal, the Petitioner provides an affidavit dated June 20, 2019. Within the affidavit, the Petitioner clearly states that he is a person of good moral character in addition to other declarations related to his character. Although this document was dated before he filed the VAWA petition, it was not part of the record before the Director.

The record reflects that the Petitioner has submitted relevant evidence that the Director has not had the opportunity to consider. As such, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established that he is a person of good moral character and satisfied the remaining eligibility requirements 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.