



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

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

In Re: 18145820

Date: MAY 16, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a lawful permanent resident (LPR) under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident (VAWA petition). The matter is now before us on appeal. The Administrative Appeals Office (AAO) 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 the matter to the Director for the issuance of a new decision.

## I. LAW

Immigrant classification under VAWA may be granted to an individual subjected to battery or extreme cruelty by their LPR spouse if that individual demonstrates, among other requirements, that they are a person of good moral character. Section 204(a)(1)(B)(ii)(II)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(F). 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). Although 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, a native and citizen of the Dominican Republic, filed her VAWA petition in March 2019 based on her marriage to A-T-,<sup>1</sup> an LPR. The Director denied the petition, determining that the Petitioner had not established that she was a person of good moral character, as required. The Director explained that the name-based criminal records search from the Dominican Republic, her personal

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<sup>1</sup> Initials are used to protect the privacy of individuals.

statement, and third party affidavits submitted in response to the request for evidence and notice of intent to deny were insufficient to meet this requirement. The Director noted that the record reflects the Petitioner has been known by two names and the submitted documents did not provide sufficient information regarding any criminal history pertaining to all names by which she has been known.

On appeal, the Petitioner provides, among other things, a criminal record name search and certification from the Consulate General of the Dominican Republic stating that she has no criminal records in the Dominican Republic under either of the names she has used. She further provides a self-affidavit confirming that she is known by two names and attesting to her good moral character.

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 she 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.