



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

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

In Re: 20152656

Date: MAY 24, 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 (Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), determining that the Petitioner did not establish that he was a person of good moral character. The matter is now before us on appeal. The Petitioner submits previously submitted evidence, new evidence and reasserts his eligibility for the benefit sought. The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Immigrant classification under the VAWA provisions may be granted to an individual subjected to battery or extreme cruelty by his or her 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).

A VAWA self-petitioner's good moral character is assessed under section 101(f) of the Act. 8 C.F.R. § 204.2(c)(1)(vii). Section 101(f) of the Act enumerates grounds that will automatically preclude a finding of good moral character. In addition, it states that "[t]he fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character" Section 101(f) of the Act. Section 101(f) of the Act applies "during the period for which good moral character is required to be established"

USCIS evaluates a VAWA self-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). As explained in policy guidance, USCIS generally examines the three-year period immediately preceding the date the VAWA petition is filed; however, if there is evidence that a self-petitioner's conduct or acts do not fall under the enumerated grounds at section

101(f) of the Act but are contrary to the standards of the average citizen in the community, we consider all of the evidence in the record to determine whether the self-petitioner has established their good moral character. *See* 3 *USCIS Policy Manual* D.2(G)(1), <https://www.uscis.gov/policy-manual>. Unless a VAWA self-petitioner establishes extenuating circumstances, they will be found to lack good moral character if they committed unlawful acts that adversely reflect upon their moral character, although the acts do not require an automatic finding of lack of good moral character, or were not convicted of an offense or offenses but admit to the commission of an act or acts that could show a lack of good moral character under section 101(f) of the Act. 8 C.F.R. § 204.2(c)(1)(vii).

II. ANALYSIS

The Petitioner, a native and citizen of Nigeria, entered the United States with a K-1 visa in April 2014. He filed the instant VAWA petition in February 2019 based on his marriage to J-K-, a U.S. citizen. As evidence of his good moral character, the Petitioner provided a personal statement and a background check letter from the [REDACTED] Texas Police Department, indicating no arrests on file.

Based on fingerprint results indicating that the Petitioner was arrested in [REDACTED] 2020, the Director issued a request for evidence (RFE) in February 2021 seeking additional evidence of the Petitioner's good moral character. In response, the Petitioner submitted an updated personal statement, a police clearance letter from the [REDACTED] Texas Police Department, and an arrest report regarding his [REDACTED] 2020 arrest from the [REDACTED] Texas Police Department. The arrest report documented the Petitioner being arrested on charges of Assault, Family Violence and based on a warrant for an unpaid traffic ticket. The Director subsequently denied the petition, concluding that the Petitioner had not established that he was a person of good moral character because he did not submit a final court disposition for his pending criminal charge.

On appeal, the Petitioner reasserts his eligibility for the benefit sought. Upon *de novo* review, we adopt and affirm the Director's decision with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board of Immigration Appeals (Board) does not preclude adopting and affirming the decision below (in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case). The Petitioner submits an updated statement describing his courtship, joint business ventures, and marital problems with J-K-, and confirmation that he paid his traffic ticket in [REDACTED] 2020. The Petitioner also submits a letter, in which his attorney states that the criminal case is still pending in the [REDACTED] Municipal Court, and that he anticipates the charge will be dismissed because the Petitioner's spouse moved out of state and is not expected to return to Texas.¹ While we acknowledge the Petitioner's additional evidence on appeal, the evidence does not explain or otherwise shed light on the circumstances that gave rise to the assault charge levied against him and his attorney's belief that the charge against him will be dismissed is not sufficient, on

¹ Additionally, the Petitioner submits a copy of a court disposition record from the Justice Court in [REDACTED] Texas indicating that the court lacked jurisdiction to hear his spouse's civil lawsuit and awarded him \$1,000 in attorney's fees.

its own, to establish that the Petitioner is a person of good moral character. The Petitioner has still not submitted a final court disposition regarding his pending criminal case—the sole basis of the Director's denial. Accordingly, we remain unable to conclude that the Petitioner has established that he is a person of good moral character.

ORDER: The appeal is dismissed.