



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

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

In Re: 17748824

Date: MAY 25, 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 Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish his good moral character, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss 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 establish their good moral character. Section 204(a)(1)(A)(iii)(II)(bb) of the Act. Primary evidence of good moral character is the petitioner's affidavit which should be accompanied by a local police clearance or a state-issued criminal background check from each location where the petitioner has resided for at least six months during the three years immediately preceding the filing of the VAWA petition. 8 C.F.R. § 204.2(c)(2)(v). If police clearances, criminal background checks, or similar reports are unavailable for some or all locations, the petitioner may include an explanation and submit other evidence with their affidavit. *Id.* U.S. Citizenship and Immigration Services (USCIS) will also consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the petitioner's good moral character. *Id.*

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). 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

In this case, the Petitioner filed his VAWA petition in July of 2018, including letters that described him as a good father, great person, and a fine young man. He also submitted a certification from the Pennsylvania State Police stating that he has no criminal record in Pennsylvania under the names O-A-C- and J-P-¹ based on the data he provided.

The Director issued a request for evidence (RFE), seeking additional documentation to establish the Petitioner's good moral character. The Director specified that the record showed the Petitioner had used aliases, including the names T-P- and O-S-, and three other dates of birth. The Director requested:

a self-affidavit attesting to your good moral character and more specifically, your criminal history, if any. If you have no criminal history, please state that in your affidavit.

In the alternative, you may submit criminal history clearances or records from each place you resided for at least six months during the 3-year period before filing your Form I-360. . . .

Locally-issued clearances may be submitted from localities that do not offer state-issued clearances. Additionally, you may substitute a clearance issued by the Federal Bureau of Investigation (FBI) for a single or multiple state-issued clearance(s). Please note: If a clearance is researched by name only, you must supply the law enforcement agency with all aliases you have used. . . .

In addition, the Director stated that the Petitioner may also choose to submit any other evidence of good moral character, such as third-party affidavits, evidence of employment, payment of taxes, community involvement and/or service, and evidence of rehabilitation from any negative factors.

In response to the RFE, the Petitioner submitted the results of a fingerprint submission from the FBI for O-A-C- which indicated "no prior arrest data at the FBI." The FBI clearance specified, that "[t]his does not preclude further criminal history at the state or local level." The Petitioner also submitted tax records from 2018 and 2019, and a copy of a recent paystub.

The Director denied the VAWA petition. The Director found that the FBI clearance did not include the other names specified in the RFE. In addition, the Director summarized the Petitioner's immigration history, including that he: had previously been removed from the United States; failed to disclose his prior removal in his VAWA petition; made misrepresentations in his Form I-485, Application to Register Permanent Residence or Adjust Status;² falsely claimed to be a U.S. citizen by presenting a driver's license and a birth certificate belonging to a U.S. citizen when attempting to reenter the United States after his previous removal; and was expeditiously removed from the United

¹ We use initials to protect the identities of the individuals in this case.

² The Director specified that the Petitioner's Form I-485 did not disclose his prior removal from the United States, did not indicate he used the names T-P- and O-S-, answered "no" to ever being denied admission to the United States, answered "no" to ever submitting fraudulent documents to any U.S. government official in an attempt to gain entry into the country, and answered "no" to ever falsely claiming to be a U.S. citizen.

States after attempting to enter using a different identity. The Director concluded that the Petitioner's conduct fell below the standards of the average citizen in the community and denied the petition accordingly.

On appeal, the Petitioner submits a brief, arguing that the RFE "fell far short of regulatory requirements as well as USCIS practice and policy." According to the Petitioner, the RFE stated the Petitioner could, "in the alternative," submit an FBI fingerprint background clearance, which is what he submitted. He contends he "met the full scope of the RFE" and that if USCIS wanted more evidence, then it should have requested more.

We adopt and affirm the Director's decision. Although the Petitioner responded to the RFE, he has not submitted a self-affidavit attesting to his good moral character and, therefore, the record lacks primary evidence of his good moral character. 8 C.F.R. § 204.2(c)(2)(v). In addition, the Petitioner has not addressed his use of multiple identities. There is no evidence he is involved in, or contributes to, his community. The Petitioner has not explained, or expressed remorse for, his immigration violations. We agree with the Director that the Petitioner has not met his burden of establishing his good moral character, as required. The petition will remain denied.

ORDER: The appeal is dismissed.