



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

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

In Re: 25235811

Date: APRIL 7, 2023

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. On appeal, the Petitioner contends that he has established eligibility for the benefit sought. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 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, among other requirements, that they are a person of good moral character. Section 204(a)(1)(A)(iii)(II)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(F). The petitioner's "claim of good moral character will be evaluated on a case-by-case basis, taking into account 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). Primary evidence of the petitioner's good moral character is their affidavit, which should be accompanied by local police clearances or state-issued criminal background checks from each of the petitioner's residences during the three years before the petition was filed. 8 C.F.R. § 204.2(c)(2)(v).

II. ANALYSIS

The record reflects that the Petitioner's criminal history includes the following: (1) a 2003 conviction for driving under the influence of alcohol (DUI); (2) a 2004 DUI conviction and conviction for driving with a suspended license; (3) a 2009 conviction for resisting arrest and public intoxication; (4) a 2011 DUI conviction and conviction for driving without a license; (5) a 2013 DUI arrest; and (6) a 2019 arrest for driving without a valid license.

Prior to issuing a decision, the Director issued a request for evidence (RFE) seeking arrest reports and related court documentation for all of the Petitioner's arrests. In response to the RFE, the Petitioner submitted final disposition documentation for all of his arrests but did not submit any police records. In denying the petition, the Director determined that the record did not contain sufficient evidence of good moral character, highlighting that the submitted documentation did not include police records or indicate whether the Petitioner completed the terms of his imposed sentences. The Director also noted that while the majority of the Petitioner's arrests were outside of the three years for which the Petitioner is required to demonstrate good moral character, U.S. Citizenship and Immigration Services (USCIS) is not precluded from considering criminal history prior to the three-year time period and may take into account a pattern of unlawful behavior that is contrary to the standards of an average citizen in the community.

On appeal, the Petitioner asserts that the Director erred by looking beyond the three-year period for which he is required to demonstrate good moral character. He further asserts that his criminal history does not include offenses that represent a permanent bar, or a conditional bar to good moral character, as defined under the Act. He also contends that he has been rehabilitated and has not had any criminal issues since 2013. In support, the Petitioner submits a psychological evaluation indicating that his symptoms are consistent with a diagnosis of generalized anxiety disorder, post-traumatic stress disorder (in remission), and alcohol abuse disorder (in remission). The evaluation also indicates that the Petitioner has made significant progress in his rehabilitation.

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.¹ Further, as stated above, unless a VAWA 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. Driving under the influence of alcohol is a serious crime which poses a risk to the safety and wellbeing of others, and in the present case, the Petitioner has three DUI convictions and a 2013 DUI arrest. We acknowledge that the Petitioner's 2013 DUI charge was dismissed; however, the Petitioner neither explained nor submitted documentation indicating why the charge was dismissed. We also acknowledge the Petitioner's rehabilitation efforts; however, in addition to the multiple DUI offenses, the Petitioner has a conviction for public intoxication and resisting arrest, reflecting an ongoing disregard for U.S. laws. Moreover, the record does not contain documentation regarding the circumstances of his arrest for public intoxication and resisting arrest, aside from the Petitioner's statement, and in the absence of additional information or documentation which would allow us to properly and fully consider the basis for and specific facts surrounding the Petitioner's arrests, such as the underlying arrest report and records or transcripts documenting his subsequent criminal proceedings, as well as documentation indicating that the Petitioner completed the terms of his imposed sentences, we are unable to assess the impact of his behavior with respect to his claim of good moral character. Consequently, the Petitioner has not established that he is a person of good moral character, and he has not demonstrated his eligibility for immigrant classification under VAWA.

¹ 3 USCIS Policy Manual D.2(G)(1), <https://www.uscis.gov/policy-manual>.

ORDER: The appeal is dismissed.