



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

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

In Re: 24049668

Date: DEC. 14, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

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 petition, concluding that the record did not establish that the Petitioner resided with the U.S. Citizen spouse, and that the Petitioner did not meet her burden of proof in establishing that she entered the marriage in good faith and she is a person of good moral character. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner argues that the evidence provided to the Director was sufficient to meet the “any credible evidence standard” and provides new evidence regarding her intent in entering her relationship with her U.S. citizen spouse.

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 withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

U.S. Citizenship and Immigration Services (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, 8 U.S.C. § 1101(f), 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 they 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).

A VAWA petitioner must establish, among other requirements, that they entered the qualifying marriage to the U.S. citizen spouse in good faith and not for the primary purpose of circumventing the

immigration laws. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). Evidence of a good faith marriage may include documents showing that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence, and experiences; birth certificates of any children born during the marriage; police, medical, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. 8 C.F.R. § 204.2(c)(2)(i), (vii).

A VAWA petitioner must also establish that they resided with the U.S. citizen spouse. Section 204(a)(1)(B)(ii)(II)(dd) of the Act. Evidence showing that the petitioner and the abusive spouse resided together may include employment records, utility receipts, school records, hospital or medical records, birth certificates of children, deeds, mortgages, rental records, insurance policies, affidavits, or any other type of relevant credible evidence of residency. 8 C.F.R. § 204.2(c)(2)(i), (iii).

USCIS shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). 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).

The record reflects that the Petitioner, a native and citizen of Nigeria, entered the United States with a non-immigrant visitor visa in March 2017. She married R-G-¹, a U.S. citizen, in [] 2018. She filed the instant VAWA petition in February 2020.

The Director determined that the Petitioner had not met her burden of proof in establishing that she resided with R-G-, that she married R-G- in good faith, or that she is a person of good moral character. Specifically, the Director determined that the affidavits provided in support of the petition lacked probative detail of the Petitioner's marital life with R-G- and that the supporting documentation was not sufficient without additional probative detail from the Petitioner.

On appeal, the Petitioner submits a detailed affidavit regarding her courtship and marital life with R-G-. In addition to the personal affidavit, the Petitioner submitted detailed affidavits from D-A-, K-A- and R-K-A-. Each of the new affidavits contain detailed descriptions of the affiants' interactions with the Petitioner and R-G- during their courtship and marriage. This includes details of visiting the Petitioner and R-G- in their home and of the inception and conclusion of their relationship. The affidavits are new evidence material to the determination of the Director that the Petitioner resided with R-G- and entered her marriage with R-G- in good faith.

We further note that the Director appears to have applied standards to the submitted evidence that are not consistent with the regulations at 8 C.F.R. § 204.2(c)(2)(i) regarding the submission of any credible evidence. For example, the Director discounted the submission of joint bills because there was no corresponding payment from a joint bank account, something not required by statute or regulation. Similarly, the Director discounted the statements of the Petitioner's children because they did not

¹ We use initials to protect the privacy of individuals.

provide details of the Petitioner's married life even though they contained statements regarding their interactions with R-G- while he was residing with them. Moreover, the Director indicated that they intended to deny the petition because the Petitioner did not meet the good moral character requirements in addition to the residence and good faith marriage requirements. However, the Director did not provide an analysis of the Petitioner's ineligibility under the good moral character provisions of the Act. The Director must fully explain the reasons for denial in order to allow the Petitioner the opportunity for a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the director's decision must explain the specific reasons for denial and notify the affected party of appeal rights); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal).

The Petitioner has provided new evidence material to the decision of the Director. We will remand the matter to the Director to consider this evidence in the first instance and further determine whether the Petitioner has otherwise established that they qualify for immigrant classification under VAWA.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.