



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

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

In Re: 24117687

Date: FEB. 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). On appeal, the Petitioner submits additional evidence and reasserts her eligibility for VAWA classification. 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

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" 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 Guatemala, most recently entered the United States with a B-2 visitor visa in January 2001. She filed the instant VAWA petition in January 2020 based on her marriage to M-C-,¹ a U.S. citizen. As evidence of her good moral character, the Petitioner provided a summary chart of her arrests; a fingerprint response summary from the Division of Criminal Justice Services Record Review Unit; copies of various sections of the New York Penal Code (N.Y. Penal Code) and New York Consolidated Laws, Vehicle and Traffic Law (N.Y. Consol. Laws, Veh. And Traffic Law); certificates of disposition for her [] 2006, [] 2007, [] 2014, and [] 2015 arrests; a conditional discharge document for her [] 2007 arrest; and a letter of support from a friend.

The Director denied the VAWA petition, concluding that, despite submission of the Petitioner's personal statement, summary chart of arrests, court disposition records, excerpts of New York Penal Code, letters from friends and landlords, tax documentation, lease agreements, and articles on racial profiling, the Petitioner had not demonstrated her good moral character. The Director specified that the Petitioner's statements regarding her arrests in [] 2006 for assault and menacing and in [] 2014 and [] 2015 for prostitution-related charges lacked detail and, without the accompanying police report and investigative report, she was unable to determine the circumstances surrounding those arrests. Finally, the Director noted that the Petitioner had a history of multiple arrests over a number of years, including charges of assault, prostitution, petit larceny, forgery, and harassment.²

On appeal, the Petitioner submits copies of reports from the [] Police Department regarding her [] 2006, [] 2007, [] 2007, [] 2014 and [] 2015 arrests. She contends that she never engaged in prostitution. Rather, she argues that she was "in the wrong place at the wrong time" due to circumstances she was forced into as a result of her abusive relationship with M-C-. The Petitioner also asserts that she has demonstrated good moral character as she is a hardworking, single mother of a teenage boy, who would experience extreme difficulties if she is not allowed to remain in the United States. She also claims extenuating circumstances due to her abusive relationship with M-C-.

¹ Initials are used to protect the individual's privacy.

² The Petitioner was convicted of disorderly conduct in [] 2006, [] 2007, [] 2007, [] 2014, [] 2015 and [] 2015, and larceny in [] 2007.

The record reflects that the Petitioner was arrested in [] 2014. In the arrest report, a detective stated that, “[a]t [time/place/occasion,] [the Petitioner] did offer and agree to engage in the sexual act of sexual intercourse with [an] under cover [sic] Detective #142 in exchange for \$140.00 United States currency.” In her statement, the Petitioner claims that M-C- would go to hotels to do drugs. She states that on this particular occasion, she went to the hotel to retrieve the car and a money order that M-C- had taken. She claims that she was not prostituting herself. Rather, she maintains that she was arrested for being at the hotel where the police were doing a prostitution raid. The Petitioner pled guilty to disorderly conduct and paid a \$90 fine. She was detained for a couple of hours and released the same day. Similarly, the [] 2015 arrest report indicates that the Petitioner offered another woman for sexual intercourse in exchange for \$140. In her statement, the Petitioner states that she was arguing with M-C- in a hotel room because he had taken the car. She states that a police officer arrived and arrested her for public disorder and promotion of prostitution. She further states that she hired a lawyer who was able to prove that M-C- had his own room, and that she had nothing to do with prostitution. She again pled guilty to disorderly conduct. The Petitioner’s explanations are inconsistent with the information contained in the arrest reports, which provide details concerning her arrests and indicate that she solicited \$140 in exchange for sexual intercourse and prostituted another woman in exchange for \$140, and thus, engaged in prostitution and procured persons for the purposes of prostitution” See section 101(f)(3) of the Act. USCIS may consider a petitioner’s conduct prior to the GMC period if the earlier conduct is relevant to the applicant’s present moral character. Furthermore, we acknowledge the Petitioner’s claims regarding her extenuating circumstances. However, the Petitioner has not articulated or demonstrated that the entirety of her criminal convictions resulted from the domestic violence she suffered. Lastly, we acknowledge the articles from the New York Times and National Public Radio indicating that the Manhattan District Attorney stopped prosecuting prostitution and unlicensed massage in 2021. However, the articles are not relevant to, nor do they provide insight into, the circumstances surrounding the Petitioner’s arrests for prostitution in 2014 and 2015.

In sum, a 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). Here, the Petitioner was arrested numerous times between 2006 and 2015, resulting in multiple convictions for disorderly conduct. Furthermore, the record remains unclear regarding the circumstances regarding her arrests for prostitution in [] 2014 and [] 2015. The Petitioner’s arrests and convictions adversely reflect upon her moral character and indicate her conduct falls below the standards of the average citizen in the community. Moreover, she has not established extenuating circumstances that would mitigate their adverse impact on her good moral character determination. Therefore, the Petitioner has not established her eligibility for immigrant classification as an abused spouse of a U.S. citizen under the VAWA.

ORDER: The appeal is dismissed.