



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

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

In Re: 23925720

Date: JAN. 25, 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 lawful permanent resident (LPR) of the United States. Immigration and Nationality Act (the Act) section 204(a)(1)(B)(ii), 8 U.S.C. § 1154(a)(1)(B)(ii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition for preference classification rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish that the Petitioner is a person of good moral character as he did not overcome evidence in the record indicating he has a criminal record in the United Kingdom. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner submits a brief and additional evidence, as well as evidence previously submitted with the VAWA petition. 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). 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 their LPR spouse if that individual demonstrates, among other requirements, that they are a person of good moral character. Section 204(a)(1)(B)(iii)(II)(bb) of the Act. A VAWA self-petitioner's good moral character is assessed under section 101(f) of the Act, 8 U.S.C. § 1101(f). See 8 C.F.R. § 204.2(c)(1)(vii) (stating that 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"). 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 themselves do not require an automatic finding of lack of good moral character. *Id.* 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>. 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 immediately before the petition was filed. 8 C.F.R. § 204.2(c)(2)(v). Where the petitioner resided outside the United States during the three-year period, they should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign country in which they resided for six or more months during that period. *Id.*

U.S. Citizenship and Immigration Services (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).

## II. ANALYSIS

The Petitioner is a citizen of the United Kingdom who last entered the United States in January 2017 through the visa waiver program. The Petitioner married S-S-<sup>1</sup> an LPR, in [REDACTED] 2017. The Petitioner filed the current petition in September 2019 based on this marriage. The Director denied the petition, determining that the Petitioner did not establish his good moral character as he did not adequately address evidence indicating he has an arrest record in the United Kingdom from during the three-year period immediately preceding the filing of his petition.

Publicly available information, specifically an [REDACTED] 2017 order and decision issued by the High Court of Justice, [REDACTED] (High Court) in the United Kingdom, indicates that the Petitioner was arrested for assaulting his former spouse during their divorce proceedings in the United Kingdom. *Veluppillai v. Chief Land Registrar & Ors* [2017] EWHC 1693 [REDACTED] (UK) <https://www.bailii.org/uk/default.aspx?i=ce5960>. The court decision describes, in detail, the Petitioner's misconduct during the divorce proceedings, including that he was found guilty of assaulting his former spouse and her counsel, that he submitted false documents to the court and that in [REDACTED] of 2017 he made threats against the life of the High Court judge. As the Director further noted, in addition to the publicly available information, USCIS confirmed the existence of criminal charges against the Petitioner for assault and an outstanding warrant for the offense of threats to kill in the United Kingdom through INTERPOL. Based on this information, the Director found that the criminal history, which occurred during the three-year period immediately preceding the filing of the petition, indicated that the Petitioner had engaged in unlawful acts that adversely reflected on his moral character and did not meet the standards of the average citizen in the community.

With the VAWA petition, the Petitioner provided a personal statement asserting that he is a person of good moral character. In addition, he provided a background check from Belgium, employment related background investigation records, affidavits from third parties asserting that the Petitioner has no criminal history, and evidence of gainful employment to support his claim of good moral character. On appeal, the Petitioner submits a new personal statement, affidavits from his former spouse and children, affidavits from colleagues, snapchat conversations with his family and additional tax

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<sup>1</sup> We use initials to protect the privacy of individuals.

documents. In his statement on appeal, the Petitioner claims that none of the derogatory information on which the Director relied applied to him, and he maintains that he has never been arrested.

Upon de novo review, the Petitioner has not established that he is a person of good moral character. The Petitioner's evidence submitted with the VAWA petition, as well as the new evidence on appeal, are not sufficient to rebut probative evidence indicating that he has an arrest record in the United Kingdom. The Petitioner's statements before the Director and on appeal and the affidavits provided by his children, coworkers, and former spouse do not directly address the derogatory evidence on which the Director relied. Although the Petitioner asserts that he has never been arrested and that the High Court record does not relate to him, the High Court decision specifically identifies the Petitioner and his former spouse and children by their full names, as set forth on his immigration applications before USCIS. The supporting affidavits generally assert that he does not have an arrest record, but do not specifically address the derogatory evidence in the High Court decision, and confirmed by INTERPOL, that he was arrested in the United Kingdom during his divorce proceedings. While we acknowledge the employment related background checks he submitted, they reflect that they were completed in the United States and do not show that a search of foreign government criminal records was conducted. Additionally, the Petitioner has not submitted, below or on appeal, foreign police clearances or background check results from the appropriate authority in the United Kingdom to establish that the criminal arrest described in the High Court does not relate to him. *See also* 8 C.F.R. 204.2(c)(v) (indicating that where petitioners resided abroad within the three-year period immediately preceding filing of a VAWA petition, they should submit police clearances from appropriate authority in every foreign country they resided for six or more months during that period). Accordingly, the relevant evidence on appeal, including the statements of the Petitioner, accompanying affidavits and background checks, are insufficient to overcome the evidence in the record that he was arrested and found guilty of assault in the United Kingdom.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Here, the record contains probative evidence that the Petitioner was arrested for assault and has pending criminal charges in the United Kingdom. On appeal, the Petitioner has not established that the criminal history set forth in the High Court decision does not relate to him. The conduct described in the court decision constitutes unlawful behavior that adversely reflects upon the Petitioner's moral character and is contrary to the standards of the average citizen in the community. The Petitioner has not provided extenuating circumstances for the unlawful acts outlined in the High Court decision. Based on the above, the Petitioner has not met his burden of proof in establishing that he meets the good moral character requirement under VAWA. *Id.*; section 204(a)(1)(B)(iii)(II)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(vii).

### III. CONCLUSION

Upon review of the entire record, the Petitioner has not demonstrated that he is a person of good moral character as required by section 204(a)(1)(B)(iii)(II)(bb) of the Act. Consequently, he has not established his eligibility for VAWA classification.

**ORDER:** The appeal is dismissed.