



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

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

In Re: 27413679

Date: JUL. 10, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (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 he was a person of good moral character. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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).

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 generally* 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).

If it has been determined that an applicant has knowingly made a frivolous application for asylum, and the applicant has been advised of the privilege of representation by counsel and the consequences of frivolous filings, then the applicant shall be permanently ineligible for any benefits under section 208(d)(6) of the Act.

## II. ANALYSIS

The Petitioner, a native and citizen of Haiti, entered the United States without inspection in January 2000, was placed into removal proceedings, and was referred to Immigration Court after a finding that he had a credible fear of returning to Haiti. The Petitioner submitted a Form I-589, Application for Asylum or Withholding of Removal, and testified before an Immigration Judge. At the conclusion of the proceedings, the Immigration Judge ruled that the Petitioner had filed a frivolous application for asylum and, subject to section 208(b)(6) of the Act, “will forever be prevented in the future from receiving any Immigration benefits.” While the Petitioner submitted a fingerprint response indicating no additional criminal history, tax documents, self-affidavits, and affidavits in support of his character, the Director denied the instant VAWA petition, as the Petitioner was unable to establish that he was a person of good moral character, as his actions in filing a frivolous asylum application did not align with the standards of the average citizen in community. The Director further noted that the Petitioner “made no attempt to explain” the Immigration Judge’s findings.<sup>1</sup>

Following the denial of his VAWA petition, the Petitioner filed multiple motions to reopen and reconsider his VAWA petition. On the instant Form I-290B, Notice of Appeal or Motion, the Petitioner indicates that he is appealing the decision issued on his motions filed in April 2022. In the decision on these motions, the Director noted that the Petitioner had not submitted any new evidence and did not provide new facts that would change the underlying decision, and additionally that the Petitioner did not provide reasons for reconsideration supported by any pertinent precedent decisions. Upon review, we agree with the Director. With the motions filed in April 2022, the Petitioner only submitted the Form I-290B and a copy of the decision issued on his previously filed motions, and did not include any brief, statements, or evidence.

With his appeal, the Petitioner submits a brief. In his brief, he claims that the Director denied his VAWA petition as if he was convicted of an aggravated felony, which he was not. However, our review of the Director’s initial decision on the VAWA petition reflects that the Director did not base the denial on a conclusion that the Petitioner was convicted of an aggravated felony but stated instead that although the Petitioner was “not specifically barred from establishing good moral character under any of the 101(f) categories,” his actions did not align with the standards of the average citizen of the community. The remainder of the Petitioner’s brief on appeal does not address the Director’s decision,

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<sup>1</sup> The Director further determined that the Petitioner had not established that he was the victim of battery or extreme cruelty, as required by section 204(a)(1) of the Act. However, the Petitioner has not addressed this either in his prior motions or on appeal, and we need not reach it now.

and instead asserts that “[i]mmigration statutes must be narrowly construed in favor of aliens,” and provides several citations in attempt to support this statement; however, he does not indicate how this issue relates specifically to his VAWA petition, the Director’s decisions, or the Immigration Judge’s determination that he filed a frivolous asylum application, which barred him from receiving any immigration benefits in the future. As such, we determine that the Petitioner has not overcome the Director’s determination that his filing of a frivolous asylum application did not align with the standards of the average citizen in the community, and he has not established that he is a person of good moral character.

**ORDER:** The appeal is dismissed.