



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

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

In Re: 27413687

Date: JUL. 18, 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 the Petitioner 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

Immigrant classification under the VAWA provisions may be granted to an individual subjected to battery or extreme cruelty by their 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).

The Petitioner, a native and citizen of China, arrived in the United States in October 2014, and she filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition) in May 2020. While her VAWA petition was pending, the Director issued a request for evidence, informing her that it appeared that she had provided false testimony, and asking her to submit additional evidence in support of her good moral character. Ultimately, the Director denied the VAWA petition, concluding that the Petitioner had provided false testimony, and did not establish that she was a person of good moral character.

In our review, the Director's decision states that if an individual is determined to have provided false testimony as defined in section 101(f)(6) of the Act, they are barred from establishing good moral character, further defining that false testimony "is limited to oral statements made under oath . . . with the subjective intent of obtaining immigration benefits." *See Kungys v. United States*, 485 U.S. 759, 780 (1988). The Director noted that false testimony is not a bar to good moral character if the false testimony is withdrawn voluntarily and without delay. *See Matter of Namio*, 14 I&N Dec. 412 (BIA 1973).

The Director's decision then discussed the evidence provided in support of the Petitioner and provided a timeline of events. The decision stated that the Petitioner filed a Form I-589, Application for Asylum or Withholding of Removal, in January 2015, and that the asylum application was referred to an Immigration Judge. The Director noted that the referral to the Immigration Judge stated that she "was found not credible for the following reasons: [her] testimony related to her employment, education, and visa applications, which directly implicate her admissibility, were inconsistent and demonstrate a propensity to dissemble." The decision stated that the Petitioner signed a sworn statement in June 2018 in which she admitted she was not a doctor, as was previously indicated in her record. Finally, the decision noted that the Petitioner filed a Form I-601, Application for Waiver of Grounds of Inadmissibility, which was denied in August 2018.

We determine that the Director's decision was insufficient in explaining their determination regarding the Petitioner's false testimony. The three events that were described in the decision do not provide the necessary detail that the Petitioner's testimony was made under oath, and with the subjective intent to obtain immigration benefits. While the Director stated that the Petitioner was barred from establishing good moral character, the decision did not determine at what point the false testimony occurred, to whom the false testimony was made, and whether it was outside the three years prior to filing. As noted above, 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>. Further, the decision did not note that false testimony is considered a conditional bar, not a permanent bar, and did not include the requisite case-

by-case analysis to determine if the Petitioner's actions met those of the standards of the average citizen in the community.

Remanding a matter is appropriate when the director does not fully explain the reasons for the denial so that the affected party has a fair opportunity to contest the decision and the AAO has an opportunity to conduct 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); cf. *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). As the Director's decision did not provide sufficient information regarding their determination of the Petitioner's good moral character, we withdraw the Director's decision and remand the matter for entry of a new decision consistent with the foregoing analysis.

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