



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

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

In Re: 26846249

Date: JUN. 16, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen)

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits. The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen) (VAWA petition), concluding that the Petitioner did not establish that he is a person of good moral character. The matter is now before us on appeal. Upon de novo review, we will dismiss the appeal.

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, the petitioner must establish their good moral character. Section 204(a)(1)(A)(iii)(II)(bb) of the Act. 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. 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).

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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). Primary evidence of good moral character is the petitioner's affidavit which should be accompanied by a local police clearance or a state-issued criminal background check from each location where the petitioner has resided for at least six months during the 3 years immediately preceding the filing of the VAWA petition. 8 C.F.R. § 204.2(c)(2)(v). If police clearances, criminal background checks, or similar reports are unavailable for some or all locations, the petitioner may include an explanation and submit other evidence with their affidavit. *Id.*

U.S. Citizenship and Immigration Services (USCIS) will also consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to the petitioner's good moral character. *Id.* USCIS determines, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

The Petitioner indicates that he entered the United States on or about 2002.¹ In [] 2003, the Petitioner married V-J-S-,² a U.S. citizen. The Petitioner filed a VAWA petition in 2020. The Director denied the petition, concluding that the Petitioner had not established that he was a person of good moral character. The Director detailed that the Petitioner had been arrested on five separate occasions for several drug possession or distribution charges and traffic violations between 2005 and 2018.³ The Director further outlined the Petitioner's use of multiple U.S. citizens' identities to obtain fraudulent Massachusetts driver's licenses and his failure to disclose those aliases on USCIS forms. While the Petitioner submitted a statement expressing regret for his actions and third-party letters in support of his application, the Director found that such documentation did not outweigh the severity of his criminal history.

On appeal, the Petitioner submits a new statement, a psychosocial evaluation and "Immigration Hardship Mental Health Evaluation" for himself, a criminal record certification showing that he does not have a criminal history in the Dominican Republic, a fingerprint-based criminal history report from the Criminal Justice Information Services Division of the Federal Bureau of Investigation, and re-submits court records establishing that he has not been convicted on any of the drug charges listed by the Director.⁴ The Petitioner also submits letters of support from his three children, along with his daughters' medical and school records, text messages and photos with his children, and bank statements and electronic transfer reports showing his financial support of his children; and letters of support from several volunteer organizations he participates with, along with a "self-reported" volunteer history showing the hours and organizations the Petitioner served in 2022. In his statement, the Petitioner indicates that he has "learned a lot from [his] mistakes of driving without a driver's license or using documents and names from [his] friends," "understand[s] the gravity of [his] past misconduct," and knows it was "incorrect," but he did it because he feared being in prison or deported and separated from his children. He also states that he was never involved in a drug violation or drug trafficking and he was simply in the wrong place at the wrong time. He further asserts that he provides financial and emotional support to his U.S. citizen children and will not be able to provide the same level of care if he is deported.

As detailed by the Director and supported by documentation in the record, the Petitioner used multiple U.S. citizens' identities to obtain fraudulent Massachusetts driver's licenses and failed to disclose those aliases on USCIS forms. When confronted with this information by the Director, on multiple

¹ The record does not contain documentation to establish when the Petitioner actually entered the United States or that he entered the United States legally.

² We use initials to protect the privacy of individuals.

³ We note that there were additional charges not listed by the Director, relating to forged documents and providing false identification to law enforcement at the time of those arrests.

⁴ As noted by the Director in the decision to deny the petition, the record establishes that the Petitioner has used multiple aliases while in the United States. The court records provided by the Petitioner support the Director's finding, as the documents contain separate aliases for the Petitioner. The Petitioner does not explain his use of aliases on appeal.

occasions (in a Notice of Intent to Deny and in the denial of the petition), the Petitioner continuously failed to address this issue. The Petitioner did not provide an explanation for his actions to obtain the fraudulent documents or his failure to disclose his multiple aliases on USCIS forms at any time, including on appeal. Further, the Director acknowledged the Petitioner's accounts of the incidents that led to his arrests, and noted several discrepancies in his statements and the court records, but the Petitioner does not address these discrepancies or submit evidence to clarify them on appeal. Moreover, the record does not include the incident reports outlining the circumstances that led to the Petitioner's arrests, written contemporaneous with the incident, in order to clarify the events leading to the arrests.⁵

Upon de novo review, we adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case.")

The record, in its totality, supports a finding that the Petitioner's conduct falls below the standard of the average person in the community. As such, the Petitioner has not demonstrated that he is a person of good moral character. Consequently, he has not established that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.

⁵ While we recognize that incident reports are not required evidence, the Petitioner's statements, as submitted in the record, do not probatively address the specific statements, allegations, or events that culminated in his arrests on separate charges of a serious nature.