



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

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

In Re: 21122232

Date: JUN. 7, 2022

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 (the Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), and the matter is before us on appeal. Upon *de novo* review, we will remand the appeal.

I. LAW

Immigrant classification under VAWA 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).

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). While we must consider any credible evidence relevant to the VAWA petition, we determine, 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 Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

II. ANALYSIS

The Petitioner, a native and citizen of Brazil, filed her VAWA petition in August 2019 based on her marriage to R-G-,¹ a U.S. citizen.

The Director denied the petition, determining that the Petitioner had not established that she was a person of good moral character, as required. In a Request for Evidence issued to the Petitioner in

¹ We use initials to protect the privacy of individuals.

July 2021, the Director notified the Petitioner of documents that she could submit to support her good moral character and requested specification of the last date that the Petitioner had arrived in the United States in order to determine the locations from which the Petitioner would potentially need to acquire police clearance records. The Petitioner responded with a clearance from the Federal Bureau of Investigations (FBI) and a second personal statement. In the denial of the petition, the Director explained that as she had not provided the date of her last arrival to the United States, it could not be determined if the Petitioner met the good moral character requirement. The Director further explained that the FBI clearance letter only encompassed time that she was in the United States, but it was unclear if the Petitioner had resided outside of the United States during the three years prior to filing her petition.

On appeal, the Petitioner submits new evidence and an additional statement clarifying her most recent arrival to the United States was in January 2018, but only after a brief departure of approximately 37 days. The Petitioner's statement on appeal includes the dates on which she resided in the United States, which covers the three-year period prior to filing her petition, as she indicates she has resided in the United States since 2010. Additionally, the Petitioner states that she "[has] no criminal record in the United States, Brazil or any other country for that matter."

The record reflects that the Petitioner has submitted relevant evidence that the Director has not had the opportunity to consider. As the Director's sole reason for denial was the omission of the date of her last entry to the United States, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established that she is a person of good moral character and satisfied the remaining eligibility requirements for immigrant classification under VAWA.

ORDER: The decision of the Director is withdrawn. The matter is remanded for consideration of new evidence and issuance of a new decision.