



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

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

In Re: 22260138

Date: JUN. 24, 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), determining that the Petitioner did not establish that he was a person of good moral character. The matter is now before us on appeal. 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).

A VAWA self-petitioner's 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. Section 101(f) of the Act applies "during the period for which good moral character is required to be established"

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 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 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). U.S. Citizenship and Immigration Services (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).

II. ANALYSIS

The Petitioner, a native and citizen of Ukraine, filed the instant VAWA petition in February 2018, based upon her marriage to O-D-, a U.S. citizen.¹

As evidence of her good moral character, the Petitioner provided before the Director self-affidavits, supporting statements from those who know her, documents relating to her employment and payment of taxes, as well as documentation that she had not been arrested. The Petitioner also submitted evidence that she has adult children who have become U.S. citizens.

In denying the VAWA petition, the Director explained that although the Petitioner did not fall within any of the grounds at section 101(f) of the Act that automatically preclude a finding of good moral character, certain factors—in particular, the possible filing of a fraudulent Form I-589, Application for Asylum (asylum application), after her arrival to the U.S., and fraudulently obtaining a driver’s license in a state where she never resided—reflected fraudulent conduct that fell below the standards of the average citizen in the community.

On appeal, the Petitioner submits a brief, and a copy of the record previously submitted with her VAWA petition. In her brief, the Petitioner presents a disagreement with the Director’s assessment of the statements and evidence that were provided by the Petitioner in response to the Director’s request for evidence (RFE), and states, “the Service did not heed any weight to Petitioner’s response to the RFE” and lists the evidence that was submitted.

In review of the underlying record, the Petitioner arrived in the U.S. in 2005. Following her arrival, she obtained the services of M-&A- to assist her with the filing of an asylum application. In 2009, M-&A- were arrested and convicted of filing fraudulent applications for immigration benefits. The Petitioner, in her statements in the record, claimed that she was unaware of the filings that M-&A- had made on her behalf until after their arrest, and claimed that what they submitted on her behalf did not match what she had submitted to them. In support of her claims, the Petitioner submitted an amended asylum application and a copy of an Unauthorized Practice of Law complaint, which she filed in the state of Washington, disputing that she was filing for asylum as a “gypsy,” rather that she faced abuse and persecution at the hands of police and local mafia.

¹ We use initials to protect the identity of individuals.

In the Director's RFE, it was noted that the Petitioner had obtained driver's licenses in the state of Washington and requested copies of those driver's licenses. The Director noted that, following their arrest and during their cooperation with the investigation, M-&A- had submitted a copy of a lease in [redacted] Washington, containing the names of the Petitioner and T-K-, which M-&A- claimed was created for the Petitioner to obtain the driver's license. In response to the RFE, the Petitioner stated that she sometimes went to Washington to escape her abusive spouse but indicated that she had never resided there and did not know who T-K- was. As a result, the Director denied the Petition, finding that the statements and evidence provided by the Petitioner were insufficient to address the fact that it appeared that the Petitioner had filed a fraudulent asylum application and fraudulently obtained a Washington driver's license, and therefore that the Petitioner did not establish that she was a person of good moral character.

In our review, we determine that the Director's decision properly weighed the statements and evidence submitted by the Petitioner. We note, specifically, that while the Petitioner contends that she was unaware of what M-&A- were filing on her behalf, she still has not provided any explanation for how she came to be in possession of driver's licenses issued by the state of Washington, and repeatedly claimed in her previous statements that she has only lived in New York and only resided with a friend in Washington for short periods. The Director's decision noted that M-&A- provided a copy of a lease between the petitioner and T-K- in the state of Washington, and noted that in Washington, to obtain a driver's license, proof of residency must be provided. At no point has the Petitioner explained how she initially came to be in possession of her Washington driver's license. In the affidavit submitted in response to the RFE, she stated, '[she has] never resided in Arizona or Washington,' and '[the Petitioner's] friend extended [her] Driver License online, [the Petitioner] [did] not know what information [her friend] put there.' These statements are insufficient in determining whether the petitioner utilized the fraudulent lease prepared by M-&A- to initially obtain her Washington driver's license. While the Petitioner previously provided some evidence and arguments that she was unaware of the fraudulent asylum application, she has not addressed how she came to have a driver's license in the state of Washington if she never resided there. She had previously stated that she had never seen the lease and did not know T-K-, but the Petitioner has not submitted new evidence or statements on appeal which would overcome the Director's determination and has not addressed the outstanding concerns regarding her knowledge and cooperation with filing a fraudulent asylum application and fraudulently obtaining a driver's license in Washington. The Petitioner claimed in her statement in response to the Director's RFE that she signed a blank asylum application which was then filed by M-&A- and that she was unaware of the contents of the application. The Petitioner stated that she believed they also used her signature to file various Forms AR-11, Notice of Change of Address. While the Petitioner amended her asylum application in 2012 and made the above claims, the Petitioner still has not provided sufficient evidence to determine that she had no knowledge, especially considering that she obtained and used a driver's license from a state she stated she's never resided in, which appears to have been part of the fraudulent scheme perpetrated by M-&A-. 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). The Petitioner has not met this burden.

To summarize, the Petitioner has not overcome the Director's determination that her conduct fell below the standards of the average citizen in the community. As such, the Petitioner has not demonstrated that she is a person of good moral character. Consequently, the Petitioner has not established her eligibility for VAWA classification.

ORDER: The appeal is dismissed.