



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

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

In Re: 20566386

Date: MAY 2, 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 lawful permanent resident of the United States under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident (VAWA petition), concluding that the Petitioner did not establish that she had entered into the marriage in good faith or that she is a person of good moral character, as required. The matter is now before us on appeal. Upon *de novo* review, we will remand the matter to the Director.

I. LAW

A petitioner who is the spouse of a lawful permanent resident 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)(B)(ii) of the Act. Among other things, the petitioner must establish their good moral character. Section 204(a)(1)(B)(ii)(II)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(F).

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).

II. ANALYSIS

In this case, the Director found that the Petitioner had been arrested in [] 2020, charged with assault, criminal trespass, and harassment, and that the case against the Petitioner remained pending. The Director therefore concluded that the Petitioner had not established her good moral character. In addition, the Director found that the Petitioner did not provide sufficient evidence that she entered into her marriage in good faith. The Director specified, among other things, that the Petitioner's personal statement provided few probative details regarding the couple's courtship, that the bank statements provided showed limited activity, and that third-party affidavits did not provide specific details or describe any particular interactions with the Petitioner and her spouse. The Director denied the VAWA petition accordingly.

On appeal, the Petitioner submits a certified Certificate of Disposition from the [] Criminal Court, [] New York, showing that all charges brought against her had been dismissed. She also submits an affidavit from D-C-¹, who the Petitioner had previously attested had falsely told officers that she was harassing and stalking him. In his affidavit, D-C- attests that he got angry with the Petitioner, threw a hammer at her, and, after she called the police, they were both arrested. D-C- states that the Petitioner "did nothing wrong and she should not have been arrested regarding this incident [She] still remains one of the best person [sic] I've been fortunate to meet." In addition, the Petitioner submits a new affidavit, detailing the specifics of her courtship and marriage, as well as affidavits from her sister and her spouse's cousin which describe specific interactions with the Petitioner and her spouse.

Because the Petitioner now submits evidence that directly addresses the Director's reasons for denying the petition, we find it appropriate to remand the matter to the Director to consider all of the evidence in its entirety in the first instance to determine whether the Petitioner has established her good moral character, her good faith marriage, and has otherwise established her eligibility for immigrant classification as the abused spouse of a lawful permanent resident of the United States under section 204(a)(1)(B)(ii) of the Act.

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

¹ We use initials to protect the identity of the individuals in this case.