



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

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

In Re: 19697626

Date: MAY 11, 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 Jamaica, filed his VAWA petition in June 2019 based on his marriage to K-T-,¹ a U.S. citizen.

The Director denied the petition, determining that the Petitioner had not established that he 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.

December 2020, the Director notified the Petitioner that it appeared that the police clearance submitted from the Florida Department of Law Enforcement (FDLE) appeared to be a search of his name only and did not contain identified aliases which appeared to have been used by the Petitioner. The Director's RFE also noted that the Petitioner had resided outside of the United States during the 3-year period prior to filing his petition and would need to obtain clearance letters from anywhere he resided in the 3-year period prior to filing his petition. The Petitioner responded with a police certificate from the Jamaica Constabulary Force indicating no record.² In the denial of the petition, the Director explained that although the Petitioner had submitted a police clearance from FDLE indicating he had no record, his request only contained his legal name, and did not appear to have been completed using the aliases noted in the Director's Request for Evidence (RFE).³

On appeal, the Petitioner submits evidence that his FDLE clearance was based upon his fingerprints and submits a copy of the application that was submitted for the FDLE clearance, along with his FBI Form FD258 fingerprint record.

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 aliases from the Petitioner's FDLE clearance letter, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established that he 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.

² While not discussed in the Director's denial, this clearance certificate also did not contain the aliases mentioned in the RFE or denial. As it was not discussed, we leave the matter to the Director.

³ Additionally, on appeal, and in response to the RFE, the Petitioner claims to have submitted a self-affidavit stating that he has never been arrested; however, upon review of his full record, this self-affidavit does not appear to have been included.