



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

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

In Re: 18783109

Date: MAY 12, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident

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)(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 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 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)(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

The Petitioner filed her VAWA petition in April 2019. On April 20, 2021, the Director denied the petitioner, concluding that the Petitioner had not established good moral character. Specifically, the Director noted that although the Petitioner submitted an affidavit and police clearances that pertained to her time in the United States since her entry in August 2017, to establish good moral character, the record did not contain police clearances that encompassed the 3 years immediately preceding the filing of the VAWA petition. The Director therefore concluded that the record was insufficient to establish the Petitioner's good moral character.

On appeal, the Petitioner submits a "Vietnamese Justice Record" and translation. Because the Petitioner now submits evidence that directly addresses the Director's sole reason 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 and has otherwise established her eligibility for immigrant classification as the abused spouse of a U.S. citizen 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.