



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

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

In Re: 25234683

Date: MAR. 15, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits. The Director of the Vermont Service Center denied the petition, concluding that the record did not establish that the Petitioner was a person of good moral character. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, among other requirements, that they are a person of good moral character. Section 204(a)(1)(A)(iii)(II)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(F). U.S. Citizenship and Immigration Services (USCIS) evaluates a VAWA petitioner's claim of good moral character on a case-by-case basis, considering the provisions of section 101(f) of the Act, 8 U.S.C. § 1101(f), and the standards of the average citizen in the community. 8 C.F.R. § 204.2(c)(1)(vii). Unless a VAWA 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. *Id.* 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>. Primary evidence of the petitioner's good moral character is

their affidavit, which should be accompanied by local police clearances or state-issued criminal background checks from each of the petitioner's residences during the three years before the petition was filed. 8 C.F.R. § 204.2(c)(2)(v). Although USCIS must consider "any credible evidence" relevant to the VAWA petition, we determine, in our sole discretion, the credibility of and the weight to give to that evidence. *See* section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner is a citizen and national of Jordan who first entered the United States in 2018 as a non-immigrant visitor. The Petitioner married R-S-¹ in [REDACTED] 2018 and divorced in [REDACTED] 2020. In April 2020 the Petitioner submitted the current VAWA petition claiming to have been abused by R-S- during their marriage. The Director denied the petition because the Petitioner did not meet his burden of proof in establishing that he is a person of good moral character, as required.

As stated in the Director's decision, a systems check revealed two temporary protection orders issued against the Petitioner. In addition, the Petitioner referenced in his first personal statement that R-S- filed a protection order against him. As a result, the Director issued a request for further evidence (RFE) regarding these orders and in response, the Petitioner submitted a personal statement attesting that he had never been arrested or charged with a crime or offense, a police clearance record from Jordan, results from an FBI fingerprint search, search results of Washington state criminal records, and tax documents from the U.S. The police clearance records from Jordan and the criminal records checks from U.S. all indicate the Petitioner has no criminal record. The Director then determined that the Petitioner did not establish his good moral character because he did not sufficiently address the temporary protection orders.

On appeal, the Petitioner argues that he did not fully respond to the RFE issued by the Director because the language in the RFE was misleading. Now the Petitioner submits another personal statement, copies of the petitions for order of protection, copies of the temporary orders of protection and notices of hearing for R-S- and A-D-, an order terminating the temporary order of protection filed by R-S- and a personal statement. In his statement, the Petitioner explains that the two temporary orders of protection from 2020 sought by R-S- were in retaliation to her arrest for domestic violence against him and asserts that he was never arrested or charged with a criminal offense in connection with the orders of protection. The police reports from the [REDACTED] 2020 domestic violence incident that led to the Petitioner seeking a protection order against his spouse support the assertion that R-S- was the aggressor and may have sought retribution by filing her own temporary order of protection. The Petitioner states that the 2021 temporary order of protection stemmed from a failing relationship with his landlord, A-D-, and provided a personal statement and a declaration to the court as evidence that he did not engage in criminal activity. The Petitioner argues that he has satisfied the requirements for good moral character under section 101(f) of the Act and the associated VAWA regulations under 8 C.F.R. 204.2(c)(1)(vii) which does not prohibit a finding of good moral character based solely on the existence of an expired temporary order of protection.

The record reflects that the Petitioner has provided new, material evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this

¹ We use initials to protect the identity of individuals.

evidence in the first instance and determine whether the Petitioner has established the requisite good moral character by a preponderance of the evidence and otherwise established his eligibility for immigrant classification under VAWA.²

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

² We further note that while not addressed by the Director, the record reflects that the Petitioner appears to have been married to two individuals at the same time during the three-year period for which good moral character is required and may be precluded from showing good moral character under section 101(f)(3) of the Act for practicing polygamy. *See 3 USCIS Policy Manual D.2(G)(3)*, <https://www.uscis.gov/policy-manual>.