



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

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

In Re: 28103510

Date: OCT. 13, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (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 Petitioner did not establish that they met the good moral character requirement for VAWA. In particular, the Director found that the Petitioner had not provided sufficient evidence related to the disposition for his arrest for possession of drug paraphernalia or that he successfully completed the probation periods of his prior convictions. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner argues that the Director placed too much emphasis on the Petitioner's convictions that occurred prior to the three-year period required for VAWA self-petitioners.

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 dismiss the appeal.

On appeal, the Petitioner provides a brief and asserts that the Director placed too much emphasis on the Petitioner's criminal record that predated the three-year period for which good moral character is required. The Petitioner further argues that the conduct that occurred within the three-year period is not "serious" and should not result in a finding of lack of good moral character.

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, 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). 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 they 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).

We adopt and affirm the Director's decision. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). The Petitioner argues that the Director placed too much emphasis on his conduct more than three years prior to the filing of the petition. However, agency policy clearly states that "USCIS may review and request any evidence of good moral character or lack of good moral character for any time period before or after the filing of the self-petition if USCIS has reason to believe the self-petitioner lacks good moral character." 3 USCIS Policy Manual D.2(G)(3), <https://www.uscis.gov/policy-manual>. Moreover, the Director's decision also cited a lack of evidence related to rehabilitation, completion of imposed sentences, and the lack of a final disposition for the Petitioner's most recent arrest for possession of drug paraphernalia, which occurred during the 3-year period prior to the filing of the petition. On appeal, the Petitioner states that he thinks he pled guilty and paid a fine for his possession of drug paraphernalia charge. However, the certified court disposition submitted to the Director does not contain a final disposition making it appear as though the matter is still open before the court. Ultimately, the Petitioner bears the burden of proof to establish eligibility for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 375.

Here, the record shows that the Petitioner committed unlawful acts that reflect adversely on his moral character both during and prior to the 3-year period prior to filing. The Petitioner has not provided sufficient evidence of the final resolution of his arrest for drug paraphernalia on [REDACTED] 2019. Based on the foregoing, the Petitioner has not met his burden of proof to establish he is a person of good moral character as required by section 204(a)(1)(A)(iii)(II)(bb) of the Act. Consequently, he has not established his eligibility for VAWA classification.

ORDER: The appeal is dismissed.