



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

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

In Re: 27743101

Date: AUG. 21, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Parent of U.S. Citizen or Lawful Permanent Resident)

The Petitioner seeks immigrant classification as an abused parent of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(vii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(vii).

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 dismiss the appeal.

A petitioner who is the parent of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they are eligible to be classified as an immediate relative, resides or has resided with the citizen daughter or son, and have been battered or subject to extreme cruelty by the citizen son or daughter. Section 204(a)(1)(A)(vii) of the Act. Among other things, the petitioner must establish their good moral character. Section 204(a)(1)(A)(vii)(II) of the Act. No person shall be found to be a person of good moral character if they have been convicted of an aggravated felony, as defined in section 101(a)(43) of the Act, at any time. Section 101(f)(8) of the Act; 8 C.F.R. § 204.2(c)(1)(vii). An offense that involves illicit trafficking of a controlled substance, including a drug trafficking crime, is an aggravated felony. Section 101(a)(43)(B) of the Act.

The Petitioner, a native and citizen of the Dominican Republic, filed the instant Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant (VAWA petition) in January 2022 based upon his relationship with his United States citizen son. After review of the record, the Director issued a notice of intent to deny (NOID), informing the Petitioner that, based upon his arrest history, it appeared that he may be barred from establishing his good moral character if he was convicted of an aggravated felony as defined in section 101(a)(43) of the Act. The Director's NOID outlined the Petitioner's extensive arrest history, from [] 1991 until [] 2009. Ultimately the Director denied the

VAWA petition, as the record reflected that the Petitioner was convicted of felony Distribution of Cocaine and Conspiracy with Intent to Distribute Cocaine in [REDACTED] 2009 in New Hampshire, and he was sentenced to 45 months imprisonment, which the Director determined to be an aggravated felony under section 101(a)(43)(B) of the Act.

On appeal, the Petitioner submits a new personal statement and additional documents for arrests that were not submitted in response to the Director's NOID. In his personal statement, the Petitioner does not dispute that he was convicted of an aggravated felony, as noted by the Director. He admits that he was offered a large sum of money to "make deliveries" and after seven of these deliveries, he "was arrested and charged, [he] served three and a half years in jail." The Petitioner's statement discusses his remorse, how he has been involved in charitable work with his church, and that he has been dedicated to changing his life. He further notes that he has not been convicted or arrested for any criminal activity since his release from prison for his cocaine-related conviction. However, in our de novo review of the record, we concur with the Director that his 2009 felony conviction involving the distribution of cocaine is an aggravated felony found at section 101(a)(43)(B) of the Act, and as such he is barred from establishing his good moral character. Section 101(f)(8) of the Act; 8 C.F.R. § 204.2(c)(1)(vii).

Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding whether he experienced battery or extreme cruelty by his United States citizen son. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.