



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

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

In Re: 33712084

Date: SEP. 17, 2024

Appeal of Vermont Service Center Decision

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

The Petitioner seeks immigrant classification as an abused spouse of a lawful permanent resident 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 issued a notice of intent to deny (NOID) because the Petitioner had not established that she was a person of good moral character. The Petitioner did not respond to the NOID and the Director denied the petition. A subsequent motion to reopen was dismissed. 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.

I. LAW

A petitioner who is the former spouse of a lawful permanent resident may self-petition for immigrant classification if the petitioner married the lawful permanent resident spouse in good faith, resided with the spouse, was subjected to battery or extreme cruelty by the spouse, establishes a connection between the battery or extreme cruelty and the termination of the marriage within two years of filing the petition, and is a person of good moral character. Section 204(a)(1)(B)(iii) of the Act. Section 101(f) of the Act designates certain actions that bar a finding of good moral character, although the “fact that any person is not within any of [those] classes shall not preclude a finding that for other reasons such person is or was not of good moral character.”

A petitioner’s good moral character is evaluated on a case-by-case basis taking into account the provisions of section 101(f) of the Act and the standards of the average citizen in the community. 8 C.F.R. § 204.2(c)(1)(vii). Absent extenuating circumstances, petitioners 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.* Primary evidence of a petitioner’s good moral character is a local police clearance or state-issued criminal

background check from each of the petitioner's residences of six months or more during the three-year period preceding the filing of the petition. 8 C.F.R. § 204.2(c)(2)(v). We will consider other evidence of good moral character, including affidavits from responsible persons who knowledgeably attest to the petitioner's character. *Id.* We consider any credible evidence relevant to the petition, although the determination of what evidence is credible, and the weight given such evidence lies within our sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

Section 101(f) of the Act lists the classes of persons who are statutorily barred from being considered a person of good moral character. While certain types of conduct or convictions will permanently bar a petitioner from establishing their good moral character, others trigger non-permanent, or "conditional bars" resulting from specific acts, offenses, activities, circumstances, or convictions under section 101(f) of the Act that occurred in the three-year period immediately preceding the filing of the VAWA petition. *See* section 101(f)(1)-(7) of the Act; *see generally* 3 *USCIS Policy Manual* D.2(G)(3), <https://www.uscis.gov/policy-manual>. When a conditional bar is triggered, U.S. Citizenship and Immigration Services (USCIS) has discretion to make a finding of good moral character despite an act or conviction falling under the conditional bar. For self-petitioners with a conditional bar to establishing their good moral character, they must demonstrate that the act or conviction is waivable for purposes of determining inadmissibility or removability, and that the act or conviction was connected to the petitioner's having been battered or subjected to extreme cruelty. Section 204(a)(1)(C) of the Act.

II. ANALYSIS

The VAWA petition was filed in March 2017, and denied in November 2018 due to abandonment. In August 2018, the Director issued a NOID informing the Petitioner that she had not established that she was a person of good moral character as required and requested that the Petitioner submit evidence demonstrating her good moral character. *See* section 101(f) of the Act. In [REDACTED] 2017, following an incident with her daughter C-B-,¹ the Petitioner was arrested and charged with Child Abuse No Great Bodily Harm under Fla. Stat. § 827.03(2C) (2017), a crime involving moral turpitude.² The Petitioner was found guilty after entering a plea of nolo contendere. The Director observed that the Petitioner was inadmissible under section 212(a)(2)(A)(i) of the Act, and the conviction did not fall under the exception of section 212(a)(2)(A)(ii) of the Act because the maximum penalty was imprisonment not exceeding 5 years. In October 2023, the Petitioner filed a motion to reopen based on ineffective assistance of counsel. The Petitioner explained that her prior attorney advised her to abandon her petition because he felt she was no longer eligible. With her motion, the Petitioner submitted uncertified copies of her 2022 tax records, a brief and her affidavit. However, the Director dismissed the motion concluding that the Petitioner did not overcome the determination that she was not a person of good moral character.

On appeal, the Petitioner submits a letter asserting that she "takes full responsibility for her actions, realizes that they were not appropriate and is profoundly sorry." She states that the crime was related to the years of physical and psychological abuse from her spouse which caused her emotional distress.

¹ We use initials to protect the privacy of individuals.

² The Petitioner was also charged with Child Neglect Without Great Bodily Harm, Fla. Stat. § 827.03(2D). This charge was dropped in [REDACTED] 2017.

She avers that persons affected by emotional distress may experience fear, anxiety, sadness and anger. The Petitioner proffers that the Director has the discretion to find that a petitioner can show good moral character if the disqualifying act or conviction could be waived under section 212(h) and was connected to the battery or extreme cruelty. *See* section 204(a)(1)(C) of the Act. The Petitioner further argues that her admission is not contrary to the national welfare, safety, or security of the United States and she has been rehabilitated as required by section 212(h)(A)(ii) of the Act.

On appeal, the Petitioner submits uncertified copies of her 2022 tax records; and letters of support from her daughter C-B-, employer, pastor and friend. The Petitioner also submits Certificates of Completion for an Anger Management Class and a Parenting Skills Class from the North American Learning Institute. In addition, she submits a [] 2023 Order from the Circuit Court, [] Judicial Circuit, [], Florida (Order). In the Order, the Circuit Court granted her motion for civil contempt against her former spouse for failing to allow the Petitioner to have telephonic communication and visitation with C-B-; and modified the parental responsibility, visitation, or parental plan/time-sharing schedule permitting unrestricted and unsupervised telephonic communication/contact and supervised timesharing with C-B- and shared parental responsibility. She summarizes that her favorable factors including her work history, payment of taxes and the letters of support attest to her good moral character thus outweighing the unfavorable factor of her conviction.

The USCIS Policy Manual notes a three-pronged process for evaluating acts or convictions that are considered conditional bars to good moral character. This includes a determination of whether a waiver would be available for the act or conviction, whether an act or conviction is connected to battery or extreme cruelty experienced by the self-petitioner, and finally, whether the self-petitioner warrants a finding of good moral character in the exercise of discretion. *See generally* 3 *USCIS Policy Manual*, *supra*, at D.2(G)(3) and (4). In assessing whether the act or conviction is connected, the self-petitioner must establish that there is a causal or logical relationship to the battery or extreme cruelty. *See Da Silva v. Attorney General*, 948 F.3d 629 (3rd Cir. 2020). Below, the Director did not determine whether a waiver was available, or that the Petitioner established that her act or conviction was connected to the battery or extreme cruelty, or that the Petitioner warranted a finding of good moral character in the exercise of discretion because she did not submit sufficient evidence to overcome the finding of a lack of good moral character.

On appeal, the Petitioner has not provided an adequate explanation to indicate a connection between her conviction and the battery or extreme cruelty, other than her broad statements about the effects of emotional distress. Additionally, at the time of the Petitioner's arrest, she was the custodial parent and had divorced her spouse in [] 2015. According to the Complaint/Arrest Affidavit, C-B- failed to do her homework and was not doing well in school. The Petitioner got angry and started screaming at her and instructed her to do her homework. When C-B- failed to do so, the Petitioner grabbed C-B- by her hair, pulled her towards the bathroom, grabbed a thin white extension cord and began to hit C-B- on the left side of her body. C-B- said she was hit twice on her shoulder, twice on arm, twice on her thigh and twice on her leg. C-B- fell and bumped her forehead on the ground causing soreness. Once the Petitioner was finished, she grabbed C-B- by her hair and sat her down at the table to finish her homework. The record, including the Complaint/Arrest Affidavit that resulted in her conviction, does not support the Petitioner's assertions that the conviction was connected to the battery or extreme cruelty she suffered. In view of the circumstances resulting in her arrest and conviction for Child Abuse No Great Bodily Harm, the Petitioner had not established, by a preponderance of the evidence,

that her conviction was connected to the battery or extreme cruelty that she suffered, and as such, she had not established that she is a person of good moral character.

The Petitioner asserts that she has been “rehabilitated and has passed all the Florida Family courts requirements.” However, the Circuit Court ordered the Petitioner to complete anger management and parenting classes and noted that as of October 2018, she had failed to do so. While the Petitioner completed these classes in July 2021, her prolonged delay was not explained, and this is insufficient evidence of her rehabilitation. Regarding the submission of the uncertified copies of the 2022 tax records, we note that the Petitioner did not submit proof of filing for 2022 or for any other year she has lived in the United States. We therefore give minimal positive weight to the filing and payment of taxes as evidence of the Petitioner’s good moral character.

The Petitioner submitted several letters of support. We note that the letters from her pastor, employer, and friend are generally positive and similarly describe the Petitioner as a remarkable person imbued with integrity, compassion, honesty and empathy. However, none of the writers indicate that they are aware of the Petitioner’s criminal conduct, except for C-B-. Therefore, it is unclear if the writers have a full perspective of the Petitioner’s moral character. Moreover, we note that the letters of support appear to have been typed in the same font, printed from the same printer, and signed with the same pen in the same distinctive handwriting. These inconsistencies call into question the reliability and credibility of these potentially fraudulent documents. Thus, we cannot accept that they are from responsible persons who knowledgeably attest to the Petitioner’s character. While we must consider any credible evidence relevant to the VAWA self-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). Given the problems outlined above and the severity of the Petitioner’s conviction, the Petitioner has not shown by a preponderance of the evidence that she has been rehabilitated or that she merits a positive exercise of our discretion. *See* 8 C.F.R. § 204.2(c)(1)(vii). The Petitioner has therefore not demonstrated her good moral character as required by section 204(a)(1)(B)(ii)(II)(bb) of the Act.

ORDER: The appeal is dismissed.