

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



B9

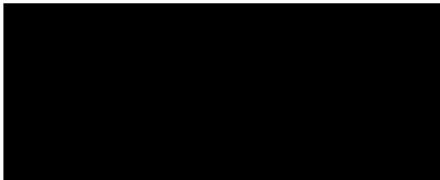
DATE: **MAY 24 2011** Office: VERMONT SERVICE CENTER



IN RE: Petitioner: [Redacted] Numerous Aliases  
Documented in the Record

PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the  
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the immigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed. The AAO's previous decision will be affirmed. The petition remains denied.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(iii) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii), as an alien battered or subjected to extreme cruelty by a United States citizen.

Section 204(a)(1)(A)(iii) of the Act provides that an alien who is the spouse of a United States lawful permanent resident may self-petition for immigrant classification if the alien demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the alien or a child of the alien was battered or subjected to extreme cruelty perpetrated by the alien's spouse. In addition, the alien must show that he or she is eligible to be classified as an immediate relative under section 203(a)(2)(A) of the Act, resided with the abusive spouse, and is a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II).

The director denied the petition on December 31, 2009, determining that the petitioner had failed to establish that he is a person of good moral character. The petitioner appealed the decision to the AAO. The AAO concurred with the director's decision citing the petitioner's criminal history, noting the applicable statute did not limit United States Citizenship and Immigration Services' (USCIS) temporal scope when assessing the petitioner's character, and determining that the petitioner's affidavits and those affidavits submitted on his behalf were insufficient to establish the petitioner's rehabilitation.

On this instant motion to reconsider, counsel for the petitioner asserts that 8 C.F.R. § 316.10(a)(2) requires USCIS to evaluate claims of good moral character on a case-by-case basis. Counsel reiterates that the petitioner has maintained good moral character for well over 10 years which is significantly more than the required three years and the majority of the numerous aliases used by the petitioner were simple variations of his name. Counsel notes that other than traffic violations and a disorderly conduct arrest and guilty plea, the petitioner has not had other significant criminal conduct.

The regulation at 8 C.F.R. § 103.5(a)(3) states, in pertinent part:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

The petitioner does not submit any pertinent precedent decisions to establish that the AAO's prior decision was based on an incorrect application of law or United States Citizenship and Immigration Services' (USCIS) policy based on the evidence of record at the time of the initial decision. The

regulation at 8 C.F.R. § 316.10(a)(2) which counsel references pertains to establishing good moral character for naturalization. As previously set out in the AAO's prior decision, the VAWA statute does not state a time period during which the self-petitioner must demonstrate his or her good moral character. See Section 204(a)(1)(A)(iii)(II)(bb) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(cc). The pertinent regulation at 8 C.F.R. § 204.2(c)(2)(v) states that primary evidence of a self-petitioner's good moral character includes local police clearances or state-issued criminal background checks from each place where the self-petitioner has resided for six or more months during the three-year period immediately preceding the filing of the self-petition. Again, as previously observed, the regulation's designation of the three-year period preceding the filing of the petition does not limit the temporal scope of USCIS' inquiry into the petitioner's good moral character. The agency may investigate the self-petitioner's character beyond the three-year period when there is reason to believe that the petitioner lacked good moral character during that time. See Preamble to Interim Regulations, 61 Fed. Reg. 13061, 13066 (Mar. 26, 1996).

The director properly determined that the petitioner had not established that he is a person of good moral character. Upon review, the AAO concurred in the decision. The record on motion continues to lack probative evidence of extenuating circumstances regarding the unlawful acts committed, a discussion regarding the unlawful acts, and evidence of the petitioner's remorse regarding the unlawful acts. The record on motion does not include evidence or pertinent precedent decisions establishing that either the director or the AAO misinterpreted the evidence of record. The evidence fails to satisfy the requirements of a motion to reconsider.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The regulation at 8 C.F.R. § 103.5(a)(4) states: "[a] motion that does not meet applicable requirements shall be dismissed." Accordingly, the motion will be dismissed, the proceedings will not be reopened, and the previous decision of the AAO will be affirmed.

**ORDER:** The motion is dismissed. The AAO's August 18, 2010 decision is affirmed. The petition remains denied.