



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

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

In Re: 21675439

Date: APR. 13, 2022

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status

The Applicant seeks to become a lawful permanent resident (LPR) under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m), based on his “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status (U adjustment application) and dismissed two subsequent motions to reopen. The matter is now before us on appeal. The Administrative Appeals Office reviews 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 remand the matter to the Director for the issuance of a new decision.

## I. LAW

U.S. Citizenship and Immigration Services may adjust the status of a U nonimmigrant to an LPR if that individual demonstrates that he or she has been physically present in the United States for a continuous period of at least three years since admission as a U nonimmigrant, has not unreasonably refused to provide assistance in a criminal investigation or prosecution, and the individual’s continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest. Section 245(m) of the Act; 8 C.F.R. § 245.24(f). To demonstrate continuous physical presence, a U adjustment applicant must provide, in pertinent part, a photocopy of all pages of all passports that were valid during the three-year period in U status prior to the filing of the U adjustment application, or an equivalent travel document or explanation of why he or she does not have a passport. 8 C.F.R. § 245.24(d)(5).

## II. ANALYSIS

The Applicant, a native and citizen of Turkey, was granted U nonimmigrant status from October 2015 to September 2019. He filed the instant U adjustment application in March 2019. The Director denied the application, finding that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5), because while he had provided a copy of his passport that was valid from December 2006 through December 2011, the record did not contain copies of all pages of all passports valid during the period he held U nonimmigrant status, an equivalent travel document, or an explanation of why he did not have a passport during that time. The Director also determined that the Applicant had not provided a

complete Form I-693, Report of Medical Examination and Vaccination Record, nor sufficient evidence to establish continuous physical presence.

The Director dismissed the Applicant's two subsequent motions to reopen. In the most recent decision, the Director found that his first motion was not submitted timely and he did not demonstrate that he merited a favorable exercise of discretion to excuse the untimely filing. The Director noted that the Applicant had submitted sufficient evidence of continuous physical presence and a valid Form I-693 with his previous motion. However, the Director concluded that even if the Applicant had submitted his first motion timely, it did not appear that he provided copies of all pages of all passports valid during his U nonimmigrant status, including his passport valid from December 17, 2019, to December 16, 2029.

On appeal, the Applicant asserts that his previously submitted evidence demonstrates that he merited a favorable exercise of discretion to excuse the untimely filing because the delay was reasonable and beyond his control, and that he has satisfied all eligibility requirements to adjust his status to that of an LPR. He refers to the Director's finding in the most recent decision that he had submitted sufficient evidence of continuous physical presence and a valid Form I-693 with his first motion. Regarding the Director's determination that he had not provided copies of all pages of all passports valid during his U nonimmigrant status, the Applicant refers to his submitted statement that explained why he did not have a valid passport during the period of his U nonimmigrant status. He stated that he did not renew his passport upon its expiration in December 2011 because he did not have a need to travel outside the United States, but after he filed the instant U adjustment application in March 2019, he wanted to obtain a passport for future travel and a new passport was issued in December 2019.

Upon review, the Applicant has complied with 8 C.F.R. § 245.24(d)(5). The record contains an explanation for why he did not have a passport between March 2016, the beginning of the three-year period in U status prior to the filing of the instant U adjustment application, until March 2019, when he applied to adjust his status. As the Applicant has overcome the remaining ground for denial, we remand the matter to the Director to determine whether he has satisfied all eligibility requirements to adjust his status to that of an LPR under section 245(m) of the Act.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded to the Director for the issuance of a new decision consistent with the foregoing analysis.