



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

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

In Re: 22895025

Date: DEC. 13, 2022

Appeal of Vermont Service Center Decision

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

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 derivative “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of a U Nonimmigrant (U adjustment application), and 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 (USCIS) may adjust the status of a U nonimmigrant to a lawful permanent resident (LPR) if that individual demonstrates, among other requirements, 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 and continuing through the date of the conclusion of adjudication of the U adjustment application. Section 245(m)(1)(A) of the Act; 8 C.F.R. § 245.24(a)(1). 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).

An applicant must establish that he or she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 245.24(b); *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

II. ANALYSIS

The Applicant, a native and citizen of Mexico, was granted U-3 status from February 2013 until February 2021, and timely filed the instant U adjustment application in May 2020. The Director determined that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5), because he did not provide all pages of all passports valid during his U nonimmigrant status. Specifically, the Director determined that although the Applicant had provided copies of all pages of his passports that were

valid from October 12, 2011, to October 12, 2012, and March 25, 2015, to March 25, 2018, he had not provided a complete copy of all pages of his passport that was valid from May 15, 2012, to May 15, 2018.

On appeal, the Applicant states that in response to the Director's request for evidence (RFE), he provided a written statement explaining that he could not provide copies of all pages of his passport valid from May 15, 2012, to May 15, 2018, because it was lost and, therefore, he only provided a copy of the first page of the passport. The Applicant contends that the officer did not see or find his written statement in the file as it may have been misplaced. Now, on appeal, the Applicant submits a copy of his entire RFE response, which includes his written statement and a copy of the first page of his passport valid from May 15, 2012, to May 15, 2018.

Upon review, the Applicant has provided new evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this evidence in the first instance, and further determine whether the Applicant has satisfied the remaining 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 consideration of the new evidence and the entry of a new decision.