



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

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

In Re: 23752843

Date: DEC. 16, 2022

Appeal of Vermont Service Center Decision

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

The Applicant seeks to become a lawful permanent resident based on her “U” nonimmigrant status as a victim of qualifying criminal activity under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m). 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. Upon de novo review, we will remand the matter to the Director for the issuance of a new decision.

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if that individual demonstrates, among other requirements, that they have 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). The burden of proof is on the applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

The Applicant was granted U nonimmigrant status from October 2014 to September 2018; her status was then extended until September 2021. In June 2020, she timely filed her U adjustment application. The Director denied the application, concluding that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5) because although she submitted a copies of two passports valid from December 2018 to December 2021 and from July 2012 to July 2015, several pages were missing from both documents.¹ On appeal, the Applicant provides complete copies of these passports as well as a complete copy of her current passport, valid from January 2022 to January 2028.²

¹ The Director did not address, as it pertains to the requirements of 8 C.F.R. § 245.24(d)(5), the time period from July 2015 to December 2018, during which the Applicant was in U status.

² The Applicant also submits evidence to demonstrate her continued physical presence from June 2020 onward.

Because this evidence is directly relevant to the Director's ground for denial of the Applicant's U adjustment application, we will remand the matter for further consideration of whether the Applicant has satisfied the requirements of 8 C.F.R. § 245.24(d)(5) and otherwise established eligibility for adjustment of status to that of an LPR under section 245(m) of the Act.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.