



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

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

In Re: 19310493

Date: FEB. 1, 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 her “U” nonimmigrant status as a victim of qualifying criminal activity. The Vermont Service Center Director denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application) and dismissed a subsequent motion to reconsider. The matter is now before us on appeal. The Applicant bears the burden of demonstrating eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. See *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

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if they meet all other eligibility requirements and, they establish that after being granted U nonimmigrant status they have not unreasonably refused to provide assistance in the investigation or prosecution of the underlying qualifying criminal activity for which they were a victim. Section 245(m)(1) of the Act; 8 C.F.R. § 245.24(b)(5). To meet this requirement, applicants must submit evidence that demonstrates whether or not they received requests for assistance from an official or law enforcement agency that had responsibility for the investigation or prosecution in connection with the qualifying criminal activity after the applicants were granted U nonimmigrant status, and the applicants’ response to such requests. 8 C.F.R. § 245.24(d)(8), (e).

II. ANALYSIS

The Applicant was granted U nonimmigrant status as a victim who was helpful in the investigation of the crime. The Applicant timely filed the U adjustment application, and the Director issued a request for evidence (RFE) for the evidence required in the regulation under 8 C.F.R. § 245.24(e) to demonstrate her continued assistance in the investigation or prosecution of the criminal activity. However, the Applicant only responded with a statement from their counsel indicating such material was not needed in this case. In support of that position, the Applicant referenced the statute of limitations and indicated that the criminal prosecution for the relevant crime was “time barred.”

Considering that response, the Director denied the U adjustment application for not providing the documentation that the regulation specifically required. The Applicant filed a motion to reconsider presenting similar arguments found within the RFE response and the Director dismissed the motion. The Applicant has not overcome this determination on appeal.

On appeal, the Applicant again argues that the statute of limitations had long run on the criminal offense that was detected, investigated, or prosecuted as being committed against them, and that the intent of the regulation was to ensure that those who may have initially assisted law enforcement, but who later withhold cooperation, should not benefit from adjustment to LPR status.

The regulations at 8 C.F.R. § 245.24(b)(5) state that eligibility for adjustment of status under section 245(m) of the Act requires U nonimmigrants, like the Applicant, to demonstrate that she “[h]as not unreasonably refused to provide assistance . . . in an investigation or prosecution . . . in connection with the qualifying criminal activity *after* [emphasis added] [she] was granted U nonimmigrant status” Such evidence included but was not limited to another Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), an affidavit describing her efforts, if any, to obtain a new Supplement B, or other evidence that also described whether she received any request to provide assistance, as well as other material that she did not provide for the record.

Here, the Applicant has not submitted a newly executed document from the law enforcement agency or official responsible for the investigation or prosecution of the qualifying crime or an affidavit describing her efforts to obtain such document or otherwise describing whether or not she received further requests for assistance from law enforcement. Accordingly, she has not met her burden of establishing that she did not unreasonably refuse to provide assistance in the investigation or prosecution of the underlying qualifying criminal activity upon which her grant of U nonimmigrant status was based, as section 245(m)(1) of the Act and 8 C.F.R. § 245.24(b)(5) require. The Applicant is not eligible to adjust her status to that of an LPR under section 245(m) of the Act.

ORDER: The appeal is dismissed.