



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

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

In Re: 20917039

Date: FEB. 28, 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 (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. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of U Nonimmigrant (U adjustment application). The Administrative Appeals Office reviews 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 remand the matter to the Director.

I. LAW

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if, among other requirements, they have been physically present in the United States for a continuous period of three years since the date of their admission as a U nonimmigrant and they establish that their 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. The applicant bears the burden of establishing 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 regulation sets forth the particular eligibility requirements and application procedures for adjustment of status under section 245(m) of the Act. In pertinent part, 8 C.F.R. § 245.24(d)(5) requires applicants to submit a “photocopy of all pages of all of the applicant’s passports valid during the required period (or equivalent travel document or a valid explanation of why the applicant does not have a passport)” and documentation showing the dates of any departures from the United States during the period that the applicant held U nonimmigrant status. Furthermore, 8 C.F.R. § 245.24(d)(9) requires applicants to submit evidence “including an affidavit from the applicant, that he or she has continuous physical presence for at least 3 years”

II. ANALYSIS

The Applicant, a native and citizen of Mexico, obtained U nonimmigrant status valid from March 23, 2017 to March 22, 2021. She filed her U adjustment application in June 2020. The Director issued a request for evidence (RFE) for the Applicant to submit, in relevant part, “a copy of all pages, cover to

cover, of [her] passport issued May 22, 2013 through May 22, 2019, and all pages of any other passports that were valid during the period [she] held U nonimmigrant status from March 23, 2017 through March 22, 2021.” Further, the Director requested that the Applicant submit “a self-affidavit attesting that [she] ha[s] maintained a continuous physical presence in the United States for at least three years since [her] admission as a U nonimmigrant.” In response to the RFE, the Applicant submitted, in pertinent part, a copy of all pages of her passport valid from 2013 through 2019 and a copy of all but the cover and first page of a passport valid from August 25, 2021 through August 25, 2031.

The Director denied the application because the Applicant’s RFE response did not include a copy of the first page of her passport issued in August 2021, or a signed personal affidavit attesting to her continuous physical presence.

On appeal, the Applicant indicates in a personal statement that she relied on the services of a notary to file her U adjustment application and respond to the RFE, and later learned that the notary had omitted some of the required evidence. She now submits a full copy of all pages of her passport issued in August 2021,¹ and a signed personal affidavit attesting to her continuous physical presence in the United States since her first arrival in about March 1998 and through her period of U nonimmigrant status.

Upon *de novo* review, and based on the additional evidence in the record on appeal, the Applicant has provided copies of her passports and thereby complied with the requirements of 8 C.F.R. § 245.24(d)(5). Additionally, she has submitted a personal affidavit regarding her continuous physical presence, as required by 8 C.F.R. § 245.24(d)(9). Moreover, the record contains sufficient evidence to otherwise establish her continuous physical presence for three years since her admission in U nonimmigrant status, as section 245(m) of the Act and 8 C.F.R. § 245.24 require. Because the Applicant has overcome the grounds for the Director’s denial, we will remand the matter to the Director for consideration of whether she has otherwise established eligibility for adjustment of 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 for the entry of a new decision consistent with the foregoing analysis.

¹ We note that this passport was issued after the time period for which the Director requested copies, “the period [she] held U nonimmigrant status from March 23, 2017 through March 22, 2021.”