



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

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

In Re: 20964868

Date: MAR. 10, 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 his “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. On appeal, the Applicant submits a brief and additional evidence. 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, in its discretion, adjust the status of individuals lawfully admitted to the United States as a U nonimmigrant to that of LPR if they establish, among other requirements, that they have been physically present in the United States for a continuous period of at least three years since the date of admission as a U nonimmigrant. Section 245(m)(1) of the Act; 8 C.F.R. § 245.24(b)(3). To meet the continuous physical presence requirement, applicants must submit evidence as described in 8 C.F.R. § 245.22 to demonstrate their continuous physical presence for at least three years. 8 C.F.R. § 245.24(d)(9). The Applicant bears the burden of proof to establish eligibility for the requested benefit 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 (AAO 2010).

II. ANALYSIS

The Applicant, a native and citizen of the Dominican Republic, was granted U-3 status in December 2014. Since he was outside the United States, the Applicant applied for a U nonimmigrant visa, and was admitted to the United States as a U-3 nonimmigrant in May 2016. His U-3 nonimmigrant status was valid until December 2019. His U-3 status was subsequently extended until September 2021. He timely filed the instant U adjustment application in February 2020. The Director issued a request for evidence (RFE) requesting a full copy of his passport, evidence of continuous physical presence, a statement of continuous physical presence, and a Form I-693, Report of Medical Examination and Vaccination Record. The Applicant submitted the requested documentation, however, did not provide a full copy of his passport. The Director denied the application, determining that the Applicant had

not complied with 8 C.F.R § 245.24(d)(5) because he had not provided a complete copy of his current passport, valid from May 2015 until May 2021.

On appeal, the Applicant provides a complete copy of his current passport. In a brief submitted with the appeal, the Applicant's counsel explains that the first page of the passport was not submitted because it only contains the state shield for the Dominican Republic, without space for travel stamps, and they did not think it was necessary to submit it.

Upon review, the Applicant has provided new, material 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 the entry of a new decision consistent with the foregoing analysis.