



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

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

In Re: 22821421

Date: NOV. 23, 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 based on her derivative “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. On appeal, the Applicant submits a statement 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 lawful permanent resident (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, in pertinent part, a photocopy of all pages of all passports that were valid during the required period, or an equivalent travel document or explanation of why they do not have a passport, and a self-affidavit addressing their continuous physical presence for at least three years. 8 C.F.R. § 245.24(d)(5) and (9).

An applicant must establish that they meet 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 Panama, was admitted to the United States as a U-3 nonimmigrant in July 2017 for a period ending in December 2019. She filed a Form I-539, Application to Extend/Change Nonimmigrant Status, which was approved, extending her U nonimmigrant status until July 2021. The Applicant timely filed the instant U adjustment application in August 2020.

In the decision below, the Director determined that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5) because she did not provide a copy of all pages of her passport valid from February 2017 until February 2022. The Director also determined that the Applicant had not complied with 8 C.F.R. § 245.24(d)(9) because she did not provide a signed statement attesting to her continuous physical presence in the United States for at least three years since her admission as a U nonimmigrant, as required.

On appeal, the Applicant submits a copy of all pages of her passport valid from February 2017 until February 2022 and her new passport valid from February 2022 until February 2027. The Applicant also submits a signed declaration addressing her continuous physical presence in the United States. In her statement, the Applicant states that she has lived in the United States since July 2017 and listed all of the addresses in which she has resided.

The record reflects that the Applicant has provided relevant evidence on appeal that the Director has not had the opportunity to consider in the first instance. Accordingly, we will remand the matter to the Director to consider this evidence and determine whether the Applicant has established her eligibility for adjustment of status 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.