



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

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

In Re: 29585868

Date: DEC. 28, 2023

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-2” nonimmigrant status. The Director of the Vermont Service Center (Director) denied the Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status (U adjustment application), and the matter is now before us on appeal. On appeal, the Applicant submits additional evidence.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

U.S. Citizenship and Immigration Services may adjust the status of a U nonimmigrant to that of an LPR if, among other eligibility 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. Section 245(m)(1)(A) of the Act. As a part of demonstrating continuous physical presence, a U adjustment applicant must provide, in pertinent part, a photocopy of all pages of all passports valid since the date of admission as a U nonimmigrant or, in the alternative, an equivalent travel document or a valid explanation of why they do not have a passport. 8 C.F.R. § 245.24(d)(5).

The Applicant, a native and citizen of Mexico, was granted U-2 nonimmigrant status from April 2018 to February 2022. He filed the instant U adjustment application in July 2021. The Director denied the application, concluding that the Applicant had not complied with the requirements of 8 C.F.R. § 245.24(d)(5). Specifically, the Director determined that the Applicant had not provided a copy of the inner cover and page 1 of his Mexican passport, valid from September 2017 to September 2023.

On appeal, the Applicant contends that the Director should have issued a request for evidence (RFE) for the missing two pages instead of denying his U adjustment application. Additionally, he contends that there is “no law, regulation or other authority indicating that the inside cover of a passport is necessary to determine an Applicant’s eligibility or lack thereof.” Nevertheless, the Applicant now

submits a copy of the inner cover and page 1 of his Mexican passport valid from September 2017 to September 2023.

In light of the above, we find it appropriate to remand the matter to the Director to evaluate the submitted evidence, as well as new evidence submitted on appeal, and 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 issuance of a new decision consistent with the foregoing analysis.