



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

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

In Re: 24400881

Date: JAN. 20, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application to Adjust 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 as a victim of qualifying criminal activity. The Director of the Vermont Service Center (Director) denied the Form I-485, Application to Adjust Status of U Nonimmigrant (U adjustment application), and the matter is now before us on appeal. On appeal, the Applicant submits a statement and additional evidence.

Applicants for U adjustment bear the burden of establishing eligibility pursuant to section 291 of the Act, 8 U.S.C. § 1361, and must establish eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions raised 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 dismiss the appeal.

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 an 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 certain specified evidence, including a photocopy of all pages of all of their passports valid since their admission in U nonimmigrant status (or an equivalent travel document) or an explanation of why they do not have a passport, as well as their own affidavits and other evidence addressing their continuous physical presence for at least three years. 8 C.F.R. § 245.24(d)(5), (9).

II. ANALYSIS

The Applicant is a native and citizen of Mexico. In March 2017, USCIS granted the Applicant U-1 nonimmigrant status valid through March 2021. The Applicant timely filed the instant U adjustment application in August 2020. The Director issued a request for evidence (RFE) seeking a statement of continuous physical presence, and evidence that the Applicant did not unreasonably refuse to provide

assistance to law enforcement in the investigation and/or prosecution of the qualifying criminal activity which formed the basis for her U nonimmigrant status. The Director acknowledged that the Applicant only submitted the biographic page of her valid passport issued on December 29, 2017, and valid until December 29, 2023. In the RFE, the Director noted that regulations require the Applicant to submit legible copies of all pages, of all passports that are valid during the period of U nonimmigrant status, and requested a copy of all pages of the passport valid from December 29, 2017, through December 29, 2023. In response to the RFE, the Applicant submitted the following: documentation explaining her efforts to obtain evidence substantiating her cooperation with law enforcement; affidavits from various individuals; her personal statement; a mental health evaluation; police report; a copy of all pages of her passports valid from September 15, 2014, through September 15, 2017, and December 29, 2017, through December 29, 2023; and a copy of the biographic page of her passport issued May 1, 2019, through May 1, 2022.

The Director denied the application, determining that the Applicant had not provided a legible copy of all pages of all passports valid during the required period of continuous physical presence. The Applicant only submitted the biographic page of the passport valid from May 1, 2019, through May 1, 2022; she did not submit pages 14 and 15 of the passport valid from September 15, 2014, through September 15, 2017; and she submitted an illegible copy of the passport valid from December 29, 2017, through December 29, 2023. As such, the Director concluded that the Applicant had not established her eligibility for adjustment of status under 245(m) of the Act.

On appeal, the Applicant provides a legible copy of all pages of her passports valid from December 29, 2017, until December 29, 2023; September 15, 2014, to September 15, 2017; and June 13, 2011, through June 13, 2014.¹ The Applicant also submits a newly executed Form I-918, Supplement B, U Nonimmigrant Status Certification along with a letter from the head of the certifying agency. The Applicant does not, however, submit a copy of the passport issued on May 1, 2019, and valid through May 1, 2022, nor provide an explanation why a complete copy of this passport was omitted from her RFE response or her appeal as required by 8 C.F.R. § 245.24(d)(9). As such, the Applicant has not provided sufficient evidence of her continuous physical presence. Because the Applicant has not addressed all the deficiencies identified by the Director, she has not demonstrated her compliance with the evidentiary requirements for adjustment of status and therefore has not established her eligibility under section 245(m) of the Act. Accordingly, the appeal is dismissed.

ORDER: The appeal is dismissed.

¹ This passport is irrelevant because its validity period precedes the Applicant's U nonimmigrant status.