



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

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

In Re: 26609866

Date: MAY 24, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status

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 U Nonimmigrant (U adjustment application), and the matter is now before us on appeal. 8 C.F.R. § 103.3.

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 (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if the applicant establishes, among other requirements, that they were admitted to the United States as a U nonimmigrant. Section 245(m)(1) of the Act; 8 C.F.R. § 245.24(b)(2)(i). The applicant must also demonstrate that they continue to hold such status at the time of application for adjustment of status. 8 C.F.R. § 245.24(b)(2)(ii).

The Applicant is a citizen of Mexico who last entered the United States without inspection in 1996. The Director approved his petition for U nonimmigrant status on March 30, 2017, with a validity period until March 29, 2021. The Director denied the Applicant’s U adjustment application, finding that he was no longer in U nonimmigrant status on the filing date of March 30, 2021. On appeal, the Applicant submits United States Postal Service tracking records that indicate the Director received the U adjustment application on March 29, 2021. The Applicant refers to 8 C.F.R. § 103.2(a)(7)(i), which provides that the filing date of a benefit request is the date that USCIS receives the request at the designated filing location, and asserts that he has established eligibility for the benefit sought.

Upon review, the Applicant has provided new 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 Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.