



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

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

In Re: 21462376

Date: APR. 11, 2022

Appeal of Nebraska Service Center Decision

Form I-485, Application for Adjustment of Status of a 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 Nebraska Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application), concluding that the record did not establish that the Applicant had been admitted as a U nonimmigrant. The matter is now before us on appeal. 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 dismiss the appeal.

I. LAW

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if they meet all other eligibility requirements and, “in the opinion” of USCIS, their “continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.” Section 245(m) of the Act. Principal U adjustment applicants must have been lawfully admitted to the United States in a valid U nonimmigrant status. 8 C.F.R. § 245.24(b)(2). The Applicant bears the burden of demonstrating eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant is a native and citizen of Canada who entered the United States on a nonimmigrant visa in 2016. She filed a Form I-918, Petition for U Nonimmigrant Status (U petition), in May 2018. A review of USCIS databases indicates that her U petition has not been adjudicated and remains in a pending status. The Applicant filed this U adjustment application in March 2021. The Director denied the U adjustment application, determining that the Applicant had not demonstrated that her U petition had been approved or that she had been admitted as a U nonimmigrant. On appeal, the Applicant contends that she did not receive a denial of her U petition, and therefore the Director’s denial of this U adjustment application was erroneous.

As noted above, the Applicant's U petition remains pending; it has not been approved or denied. Because the Applicant's U petition has not been approved, and she has not been admitted to the United States in a valid U nonimmigrant status, she cannot establish her eligibility to adjust status to that of an LPR under section 245(m)(1)(A) of the Act or 8 C.F.R. § 245.24(b)(2). Thus, we must dismiss the appeal.¹

ORDER: The appeal is dismissed.

¹ This decision is without prejudice to the filing of a new U adjustment application should the Applicant's U petition be approved at some future date.