U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20916537

Date: MAR. 8, 2022

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 her "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 dismissed the subsequent motion to reopen. The matter is now before us on appeal. On appeal, the Applicant submits a brief and additional evidence. The Administrative Appeals Office reviews the questions in the matter de novo. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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 adjust the status of a U nonimmigrant to an LPR if that individual demonstrates, among other requirements, that they have been physically present in the United States for a continuous period of at least three years since admission as a U nonimmigrant and continuing through the date of the conclusion of adjudication of the U adjustment application. Section 245(m)(1)(A) of the Act; 8 C.F.R. § 245.24(a)(1). To demonstrate continuous physical presence, a U adjustment applicant must provide, in pertinent part, a photocopy of all pages of all passports that were valid during the required period in U status, or an equivalent travel document or explanation of why he or she does not have a passport. 8 C.F.R. § 245.24(d)(5).

Applicants 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 (AAO 2010).

II. ANALYSIS

The Applicant, a native and citizen of Mexico, was granted U-3 status from December 2016 until December 2020, and timely filed the instant U adjustment application in April 2020. The Director denied the application, determining that the Applicant had not complied with 8 C.F.R § 245.24(d)(5) because she had not provided a complete copy of her current passport, valid from July 2016 until July 2022. The Director also dismissed the subsequent motion because the copy of the passport submitted

on motion was missing the first page of the passport. The Director further noted that although not addressed in the original decision, there were additional deficiencies in the U adjustment application. The Director noted that in her U adjustment application, the Applicant did not provide an answer to question 80.a; did not disclose an alias she previously used and did not explain the circumstances associated with the alias; and provided inconsistent responses regarding her arrest history in her Form I-918 Supplement A, Petition for Qualifying Family Member of a U-1 Recipient and U adjustment application, and did not explain the inconsistency in her responses.

On appeal, the Applicant provides a complete copy of her current passport, including the aforementioned missing page. In a letter submitted with the appeal, the Applicant's former counsel explains that the missing page was due entirely to an error on his part. The Applicant also provides a supplemental statement specifically addressing the additional concerns raised by the Director on motion.

Upon review, the Applicant has provided new, material 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 her 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 entry of a new decision consistent with the foregoing analysis.