



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

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

In Re: 21122261

Date: MAR. 28, 2022

Appeal of Vermont 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 derivative “U-3” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application), and 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 this 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 withdraw the Director’s decision and remand it for the entrance of a new decision consistent with the following analysis.

I. LAW

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to a lawful permanent resident (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), (b)(3). 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 three-year period in U status prior to the filing of the U adjustment application, 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).

An applicant 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, 375-76 (AAO 2010).

II. ANALYSIS

The Applicant, a native and resident of El Salvador, was admitted to the United States in U-3 nonimmigrant status in August 2015 with a validity period through September 2018. In June 2018, the Applicant filed a Form I-539, Application to Extend/Change Nonimmigrant Status, which was approved and extended her U-3 nonimmigrant status through August 2020. In April 2020, the

Applicant timely filed the instant U adjustment application. The Director then issued a request for evidence (RFE) advising that the initial filing did not contain all of the required evidence. In relevant part, the Director requested that the Applicant provide a copy of all pages, from cover to cover, of her currently valid passport issued in February 2018 and valid through February 2024. The Applicant timely responded to this RFE. Following a review of the documentation submitted with the Applicant's RFE response, the Director denied the instant U adjustment application, acknowledging receipt of the documents but determining that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5) because she had not submitted a complete copy of her passport valid from February 2018 through February 2024. Specifically, the Director stated that the Applicant had not submitted a copy of the first page of this passport.

On appeal, the Applicant provides a photocopy of the first page of the passport identified in the Director's decision. As the Applicant submits evidence directly related to the Director's ground for dismissal, and the Director has not had the opportunity to review this new evidence, 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.