



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

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

In Re: 22954872

Date: NOV. 8, 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 his “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of a U Nonimmigrant (U adjustment application), and the matter is now before us on appeal. On appeal, the Applicant submits evidence of his eligibility for adjustment of status. 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 remand this matter for further proceedings consistent with this decision.

I. LAW

A U nonimmigrant may adjust status to that of an LPR at the discretion of U.S. Citizenship and Immigration Services (USCIS) unless USCIS determines, based on affirmative evidence, that the U adjustment applicant unreasonably refused to provide assistance in a criminal investigation or prosecution. Section 245(m) of the Act. To establish eligibility, the applicant must demonstrate that since being granted U nonimmigrant status, they have not unreasonably refused to provide assistance in the investigation or prosecution of the qualifying criminal activity that formed the basis of the underlying U nonimmigrant status. 8 C.F.R. § 245.24(a)(5), (b)(5). The applicant may submit, as supporting evidence, a newly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), or a signed statement from a law enforcement agency or official affirming that they complied with, or did not unreasonably refuse to comply with, reasonable requests for assistance in the investigation or prosecution during the requisite period. 8 C.F.R. § 245.24(e)(1). If the applicant does not submit a newly executed Supplement B or signed statement as described above, they should submit an affidavit describing efforts to obtain such evidence. 8 C.F.R. § 245.24(e)(2).

In these proceedings, the burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). An applicant may submit any credible evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the weight to give that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The record reflects that the Applicant, a native and citizen of Honduras, entered the United States without inspection in December 2006. He filed a Form I-918, Petition for U Nonimmigrant Status, in March 2014 with a Form I-918 Supplement B, U Nonimmigrant Status Certification, from the general counsel of the National Labor Relations Board. The Applicant was granted U nonimmigrant status from May 15, 2017, until May 14, 2021, in relation to the qualifying criminal activity of perjury and witness tampering. The Applicant filed his U adjustment application in July 2020. The Director issued a request for evidence (RFE) in which missing documentation required to process the U adjustment application was requested. As part of the RFE, the Director requested evidence to establish that since the Applicant's admission as a U nonimmigrant, he has not unreasonably refused to provide assistance to law enforcement in a federal, state or local criminal investigation or prosecution for the qualifying criminal activity upon which the U nonimmigrant status was based. The Applicant did not provide evidence of this requirement in response to the RFE. Therefore, the Director determined that the Applicant failed to demonstrate that he has not unreasonably refused to provide assistance in the criminal investigation or prosecution since being granted U nonimmigrant status.

On appeal, the Applicant submits material evidence. Specifically, the Applicant provides a letter from the Regional Director, [REDACTED] of the National Labor Relations Board which confirms the Applicant's cooperation in the investigation of alleged unfair labor practices by [REDACTED]. The letter also provides that a settlement agreement was approved in [REDACTED] 2013, and the case was closed in [REDACTED] 2014.

Considering the Applicant's evidence submitted on appeal, we find it appropriate to remand the matter for the Director to determine if the Applicant has demonstrated that he has not unreasonably refused to provide assistance in the criminal investigation or prosecution since being granted U nonimmigrant status, and if so, whether he has satisfied the remaining eligibility requirements for adjustment of status under section 245(m) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.