



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

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

In Re: 22584068

Date: OCT. 25, 2022

Motion on Administrative Appeals Office Decision

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

The Applicant, who was previously granted “U” nonimmigrant status as a victim of qualifying criminal activity, seeks to adjust her status to that of a lawful permanent resident (LPR) under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m). The Director of the Vermont Service Center denied the Form I-485 (U adjustment application), concluding that the Applicant did not establish as required that adjustment of status was warranted as a matter of discretion. We dismissed a subsequent appeal and a motion to reopen and reconsider on the same ground.

The matter is now before us on a second combined motion to reopen and reconsider. The Applicant submits additional evidence and asserts that her request for adjustment of status should be approved in the national and public interest and in the exercise of discretion.

Upon *de novo* review, we will dismiss the motion to reopen and reconsider.

I. LAW

As previously discussed, a motion to reopen is based on documentary evidence of new facts, and a motion to reconsider must establish that our prior decision was based on an incorrect application of the law or U.S. Citizenship and Immigration Services (USCIS) policy to the evidence in the record at the time of the initial decision. 8 C.F.R. § 103.5(a)(2)-(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the benefit sought.

II. ANALYSIS

We incorporate our previous decision here by reference, and will only repeat facts necessary to address the supplemental evidence and the Applicant’s statements on motion.

The record reflects that the Applicant has a history of arrests and convictions, all of which occurred after she was granted U nonimmigrant status, and several of which involved violent offenses. In dismissing the prior motion we acknowledged the Applicant’s statement that she did not disclose her criminal history on the U adjustment application because she did not understand she was convicted.

We concluded, however, that we could not give this explanation significant weight in the discretionary analysis because the Applicant did not take direct responsibility for withholding the requisite information about her arrests. We further determined that the Applicant did not establish new facts sufficient to warrant reopening of her adjustment of status proceedings and reevaluation of discretionary factors, as the record indicated that she remained on probation as a result of her conviction for assault in the fifth degree. Lastly, we noted that the related court Register of Actions she submitted reflected that she owed almost \$4000 in restitution, surcharges, and other fees.

The Applicant now submits evidence that she entered into a payment agreement with the Minnesota Department of Revenue and that her 2021 tax refund or overpayment of over \$1300 was applied to the non-tax debt she owes to government agencies. She also submits an updated Register of Action printouts¹ from the Minnesota Judicial Branch website indicating that she has been making monthly payments on her convictions-related debt. We have considered this additional evidence, but find it insufficient to overcome our prior determination that a favorable exercise of discretion is not warranted. As stated, the record reflects that the Applicant was arrested on multiple occasions from the time she was granted U nonimmigrant status in October 2013 until she filed the instant adjustment application in October 2017. The arrests resulted in her convictions for driving without a valid license and proof of insurance, obstructing legal process, and assault in the fifth degree. In 2018, while her U adjustment application was pending the Applicant was arrested and convicted of driving after her license was cancelled. Moreover, Minnesota public court records search reveals additional arrests and convictions since that time; specifically, the court records show that in [REDACTED] 2021 the Applicant was arrested for driving after her license was revoked and convicted of the offense in [REDACTED] 2021, while her prior motion was pending before our office. Several months later, in [REDACTED] 2021 the Applicant was again arrested and charged with driving on a revoked license and transporting a child under the age of eight years without a seatbelt fastened. She was convicted of both offenses in [REDACTED] 2021, shortly after we dismissed her prior motion. The Applicant did not disclose these additional arrests and convictions previously, and she does not address them in the instant motion. Thus, while we recognize that the Applicant recently started making payments towards the court-ordered restitution and fees as a result of her assault conviction, this seemingly positive factor is not sufficient to overcome her repeated violations of law, as well as not disclosing her criminal history on the U adjustment application and in the instant motion, which points to lack of rehabilitation and genuine remorse for her actions. Consequently, the Applicant has not established new facts that would warrant reopening of these proceedings.

We will also dismiss the Applicant's motion to reconsider because she has not shown that our decision dismissing her prior motion was incorrect based on the evidence of record at the time that decision was issued. Nor does she claim that we misapplied law or USCIS policy in concluding that she did not establish a sufficient basis for reopening or reconsideration of our adverse appellate decision.

In conclusion, the new evidence the Applicant submits on motion does not establish that the positive factors in her case outweigh the negative ones, such that adjustment of status under section 245(m) of the Act should be granted as a matter of discretion. The Applicant also has not identified any legal or factual errors in our decision to dismiss her previous motion. The Applicant therefore has not shown

¹ We note that three of those printouts relate to 2013, 2014, and 2018 charges against the Applicant's mother. The Applicant does not explain the relevance of this information to her eligibility for adjustment of status.

that our prior decision was incorrect as a matter of law or USCIS policy, or that there are new facts or evidence that would warrant reopening of these proceedings.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.