



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

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

In Re: 24911402

Date: FEB. 14, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application to Adjust Status of a U Nonimmigrant

The Applicant seeks to become a lawful permanent resident based on her derivative “U” nonimmigrant status 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, 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 a statement and additional evidence. 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, in its discretion, adjust the status of individuals lawfully admitted to the United States as a U nonimmigrant to that of lawful permanent resident (LPR) if they establish, among other requirements, that they have been physically present in the United States for a continuous period of at least three years since the date of admission as a U nonimmigrant. Section 245(m)(1) of the Act; 8 C.F.R. § 245.24(b)(3). To meet the continuous physical presence requirement, applicants must submit, in pertinent part, a photocopy of all pages of all passports that were valid during the required period, or an equivalent travel document, or explanation of why they do 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 citizen of Guatemala, was granted U-2 nonimmigrant status from May 2017 to May 2021. The Applicant timely filed the instant U adjustment application in August 2020.

In the decision below, the Director determined that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5) because she did not provide a copy of all pages of her passport valid from April 2013 to April 2018.

On appeal, the Applicant submits a copy of all pages of her passport valid from April 2013 to April 2018 and her new passport valid from August 2022 to August 2027.

The record reflects that the Applicant has provided relevant evidence on appeal that overcomes the evidentiary deficiencies noted in the decision below and which the Director has not had the opportunity to consider in the first instance. Accordingly, we will remand the matter to the Director to consider this evidence and determine whether the Applicant has established her eligibility for adjustment of status under section 245(m) of the Act.

ORDER: The Director's decision is withdrawn.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