



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

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

In Re: 27229847

Date: JULY 7, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application to Register Permanent Residence or Adjust Status

The Applicant, who was previously granted “U” nonimmigrant status as a victim of qualifying criminal activity, seeks to adjust his status to that of a lawful permanent resident 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 (U adjustment application), concluding that the Applicant was no longer in U nonimmigrant status at the time of filing.

On appeal, the Applicant submits a brief with a copy of the filing receipt, and asserts that the Director’s decision was in error.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

To be eligible for adjustment of status as a U nonimmigrant, applicants must demonstrate, among other eligibility criteria, that they were lawfully admitted to the United States as a U nonimmigrant and continue to hold such status at the time of application. 8 C.F.R. § 245.24(b)(2)(i), (ii). An application is considered filed when it is received and accepted for processing by U.S. Citizenship and Immigration Services (USCIS). *See* 8 C.F.R. § 103.2(a)(7)(i) (providing that USCIS will consider a benefit request received and will record the receipt date as of the actual date of receipt at the location designated for filing such benefit request whether electronically or in paper format).

The record reflects that on April 27, 2017, the Applicant was granted U nonimmigrant status for a period of four years, until April 26, 2021, and that he subsequently filed the instant U adjustment application. In denying the application, the Director determined that the date of filing was April 29, 2021, three days after the expiration of the Applicant’s U nonimmigrant status.

To overcome this determination, the Applicant submits a copy of the U adjustment application filing receipt dated May 3, 2021, which lists the application's "Received Date" as March 16, 2021. The receipt notice, issued by the Director of the Vermont Service Center provides in pertinent part that "this notice shows that [the application] was filed on the 'Received Date' listed above." The notice specifies the filing fee amount received, and reflects that the Applicant filed for adjustment of status as a "Crime Victim (U Nonimmigrant)."

This evidence is sufficient to show that the Applicant filed his U adjustment application on March 16, 2021, while he continued to hold U nonimmigrant status. Consequently, the sole basis for the denial has been overcome and we will return the matter to the Director for adjudication of the Applicant's adjustment of status request on the merits.

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