



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

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

In Re: 28106014

Date: SEP. 15, 2023

Appeal of Vermont Service Center Decision

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

The Applicant seeks to become a lawful permanent resident based on her “U” nonimmigrant status as a victim of qualifying criminal activity 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 application, concluding that the record did not establish that the Applicant had submitted copies of all pages of all passports valid during the three-year period prior to filing her Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application), as required by 8 C.F.R. § 245.24(d)(5). The matter is now before us on appeal. 8 C.F.R. § 103.3.

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.

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). 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 they do not have a passport. 8 C.F.R. § 245.24(d)(5).

The Applicant was admitted to the United States in U-3 nonimmigrant status in August 2017. She filed the instant U adjustment application in February 2021. In their decision, the Director determined that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5), because while she had provided a

complete copy of her previous passport that was valid from August 2012 until August 2017, the copy of her current passport, valid from December 2022 until December 2027, was missing pages 8 and 9.¹

On appeal, the Applicant provides a copy of the missing pages noted above. In a cover letter submitted with the appeal, the Applicant's counsel explains that the missing pages are due to a mistake on her part. Upon review, the Applicant has provided new evidence that the Director has not had the opportunity to review. As such, 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 Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

¹ The Director's decision further noted that the validity of the Applicant's Form I-693, Report of Medical Examination and Vaccination Record, would expire on January 26, 2023. On appeal, the Applicant has submitted a newly executed Form I-693.