



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

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

In Re: 6546584

Date: MAY 29, 2020

Appeal of Vermont Service Center Decision

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

The Applicant seeks to become a lawful permanent resident under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m), based on her “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application). On appeal, the Applicant submits new evidence and reasserts her eligibility. The Administrative Appeals Office reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand this matter to the Director.

I. LAW

U.S. Citizenship and Immigration Services (USCIS), in its discretion, may adjust the status of a U nonimmigrant to that of an LPR if, among other requirements, they apply for adjustment; they have been physically present in the United States for a continuous period of three years since the date of their admission as a U nonimmigrant; and their continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest. Section 245(m)(1) of the Act; 8 C.F.R. § 245.24(b)(1), (3), and (6). The requirements for an application include a photocopy of all pages of all of the applicant’s passports valid since their admission in U nonimmigrant status, an equivalent travel document, or an explanation of why they do not have a passport. 8 C.F.R. § 245.24(d)(5). Applicants must also submit specified documents regarding any departures from, and return to, the United States. 8 C.F.R. § 245.24(d)(5).

The applicant bears the burden of establishing their eligibility pursuant to section 291 of the Act, 8 U.S.C. § 1361, and must establish eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant is a native and citizen of Mexico. In October 2014, USCIS approved her Form I-918, Petition for U Nonimmigrant status (U petition), and the Applicant filed her U adjustment application in June 2018. The Director denied the application, finding that the Applicant had not provided copies of the first two pages of her current passport and therefore had not complied with the requirement that

an applicant for adjustment under section 245(m) of the Act submit complete copies of all passports valid during the period of her U nonimmigrant status. 8 C.F.R. § 245.24(d)(5).

On appeal, the Applicant submits a brief asserting that the Director erred in denying her application because she had submitted sufficient evidence of her continuous physical presence in the United States and because the specified pages are immaterial to establish her continuous physical presence. She also submits a complete copy of her current passport.

We do not agree with the Applicant's assertion that the missing pages were unnecessary, as the regulation requires submission of copies of "all pages of all of the applicant's passports valid during the required period (or equivalent travel document or a valid explanation of why the applicant does not have a passport) *and* documentation showing [information relating to departures from the United States]" (emphasis added). 8 C.F.R. § 245.24(d)(5). Nonetheless, the Applicant has provided copies of the missing pages, and therefore she has overcome the specific evidentiary deficiency noted in the Director's decision.

Accordingly, the matter is therefore remanded for further proceedings to determine whether the Applicant meets remaining statutory criteria 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.