



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

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

In Re: 9016432

Date: JUNE 1, 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 adjust 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) based on her derivative “U” nonimmigrant status as the child of a victim of qualifying criminal activity. The Director of the Vermont Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application), and the matter is now before us on appeal. On appeal, the Applicant submits a brief and additional evidence.

Applicants bear the burden of establishing eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions raised 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 for further proceedings consistent with this 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 a 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 certain specified evidence, including a photocopy of all pages of all of their passports valid since their admission in U nonimmigrant status (or an equivalent travel document) or an explanation of why they do not have a passport, as well as their own affidavits and other evidence addressing their continuous physical presence for at least three years. 8 C.F.R. § 245.24(d)(5), (9).

II. ANALYSIS

The Applicant, a native and citizen of Mexico, was granted derivative U nonimmigrant classification in October 2014. In September 2018, she timely filed the instant U adjustment application, which the Director denied, finding that she had not complied with the requirements of 8 C.F.R. § 245.24(d)(5) because she proffered a copy of her passport in which some of the pages were illegible or incomplete.

On appeal, the Applicant submits a full copy of her passport, which was valid at the time she filed this appeal, and she explains that the incomplete pages in the original copy submitted below were due to an inadvertent error. As the Applicant has overcome the evidentiary deficiency noted by the Director under 8 C.F.R. § 245.24(d)(5), we will remand this matter for the Director to consider the Applicant's evidence in the first instance and determine whether she otherwise meets the 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.