



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

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

In Re: 9043215

Date: JULY 1, 2020

Motion on Administrative Appeals Office Decision

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

The Applicant seeks to become a lawful permanent resident (LPR) under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m), based on his derivative “U” nonimmigrant status as the parent of a victim of qualifying criminal activity. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status (U adjustment application). The matter is currently before us on a motion to reopen¹ and reconsider. On motion, the Applicant submits new evidence. Upon review, we will remand the matter to the Director for the issuance of a new decision.

I. LAW

A motion to reopen must state new facts to be proved and be supported by affidavits or other evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of the law or U.S. Citizenship and Immigration Services (USCIS) policy and that the decision was incorrect based on the evidence in the record as the time of the initial decision. 8 C.F.R. § 103.5(a)(3). On motion, the Applicant has submitted new facts sufficient to meet the motion to reopen requirements and, accordingly, the motion to reopen is granted and the matter is remanded to the Director for the issuance of a new decision. The motion to reconsider is moot.

II. ANALYSIS

USCIS may adjust the status of a U nonimmigrant to that of an LPR if, *inter alia*, he has been physically present in the United States for a continuous period of three years since the date of his admission as a U nonimmigrant. Section 245(m)(1)(A) of the Act. To demonstrate continuous physical presence, a U adjustment applicant must provide, among other requirements, a photocopy of all pages of all passports valid since the date of his admission as a U nonimmigrant or, in the alternative, an equivalent travel document or a valid explanation of why he does not have a passport. 8 C.F.R. § 245.24(d)(5).

¹ Although the Applicant indicated on the relevant Form I-290B, Notice of Appeal or Motion, that he was filing a motion to reconsider, because he submits new evidence for consideration, we treat the motion as both a motion to reopen and a motion to reconsider.

The Applicant was granted U nonimmigrant status from October 2014 to September 2018. He filed the instant U adjustment application in April 2018. The Director denied the application, finding that the Applicant had not complied with 8 C.F.R. § 245.24(d)(5) because he did not provide a complete copy of his current passport, valid from October 2018 to October 2028. On motion to reopen, the Applicant submits a complete copy of his current passport. Upon review, the Applicant has complied with the requirements of 8 C.F.R. § 245.24(d)(5) and overcome the Director's ground for denial of his U adjustment application. Therefore, we will remand the matter for further consideration of whether the Applicant has satisfied the remaining eligibility criteria for adjustment of status to that of an LPR under section 245(m) of the Act.

ORDER: The motion to reopen is granted, and the matter is remanded for the entry of a new decision consistent with the foregoing analysis.