



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

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

In Re: 9016436

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 “U” nonimmigrant status as 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), unless USCIS determines, based on affirmative evidence, that the U adjustment applicant unreasonably refused to provide assistance in a criminal investigation or prosecution of the qualifying criminal activity committed against them on which basis they obtained their U nonimmigrant status. Section 245(m)(1) of the Act; 8 C.F.R. § 245.24(b)(5). Applicants must therefore establish, among other requirements, that after being granted U nonimmigrant status, they have not unreasonably refused to provide assistance to an official or law enforcement agency that had responsibility in an investigation or prosecution of persons in connection with the qualifying criminal activity upon which the approval of their U status was based. 8 C.F.R. § 245.24(b)(5). In order to satisfy this requirement, applicants may submit a newly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), or a signed statement from the official or law enforcement agency that had responsibility for the investigation or prosecution of the qualifying criminal activity, affirming that the applicants complied with, or did not unreasonably refuse to comply with, reasonable requests for assistance in the investigation or prosecution during the requisite period. 8 C.F.R. § 245.24(e)(1). If a newly executed Supplement B or the signed statement described above

is not submitted, applicants should submit an affidavit describing their efforts to obtain such evidence. 8 C.F.R. § 245.24(e)(2).

U adjustment applicants must further demonstrate 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(a)(1), (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 U nonimmigrant classification in October 2014, based on having been a victim of the qualifying crime of felonious assault and on her assistance to law enforcement in the investigation or prosecution of that offense. 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 the proffered copy of her passport did not include all the pages of the passport. Additionally, the Applicant had not submitted evidence demonstrating that she had not unreasonably refused to provide assistance to law enforcement in the investigation or prosecution of the qualifying criminal activity. 8 C.F.R. § 245.24(e).

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 missing two pages in the original copy submitted below was due to an inadvertent error. She also proffers a copy of a new Supplement B from the certifying agency, affirming that the Applicant had not refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity committed against her. The Applicant asserts that she requested the Supplement B from the certifying agency in response to the Director's request for evidence but did not receive the document until after the denial of his U adjustment application. The Applicant further submits a supplemental statement in which she maintains that the law enforcement agency that investigated or prosecuted the felonious assault committed against her never contacted her for further assistance in the investigation after she was granted U nonimmigrant status. As the Applicant has overcome the evidentiary deficiencies noted by the Director under 8 C.F.R. §§ 245.24(d)(5) and (e), 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.