



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

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

In Re: 27008662

Date: JUN. 09, 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 (LPR) under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m), based on their “U” nonimmigrant status.

The Director of the Vermont Service Center denied the application, concluding that the record did not establish that the Applicant had satisfied the requirements found at 8 C.F.R. § 245.24(d)(5), as they did not provide a photocopy of all pages of all passports valid since their date of admission as a U nonimmigrant. 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.

USCIS may adjust the status of a U nonimmigrant to that of an LPR if, among other eligibility requirements, 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. Section 245(m)(1)(A) of the Act. To demonstrate continuous physical presence, a U adjustment applicant must provide, in pertinent part, a photocopy of all pages of all passports valid since the date of their admission as a U nonimmigrant or, in the alternative, an equivalent travel document or a valid explanation of why they do not have a passport. 8 C.F.R. § 245.24(d)(5).

The Applicant, a native and citizen of Guatemala, was granted U-2 nonimmigrant status from April 2017 to April 2021. They filed the instant U adjustment application in September 2020. The Director denied the application, finding that the Applicant had not complied with the requirements of 8 C.F.R. § 245.24(d)(5). Specifically, the Director noted that the record did not contain copies of all pages of all passports valid during the period they held U nonimmigrant status, as the copy submitted in response to the Director’s request for evidence (RFE) was missing the inside cover and page 1, as well as pages 30-31, of their passport valid from November 2012 to November 2017. With their appeal, the Applicant submits a statement maintaining the full copy was provided in response to the

RFE, but nevertheless submits a new copy of the passport, which includes the missing pages noted by the Director in their decision. Upon *de novo* review and based on the additional evidence in the record on appeal, the Applicant has complied with the requirements of 8 C.F.R. § 245.24(d)(5). Because the sole ground for denial of the Applicant's U adjustment application has been overcome on appeal, we remand the matter to the Director to consider whether they have otherwise established eligibility for adjustment of 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.