



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

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

In Re: 25151771

Date: MAR. 1, 2023

Motion on Administrative Appeals Office Decision

Form I-485, Application to 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 her “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of a U Nonimmigrant (U adjustment application), concluding that a favorable exercise of discretion was not warranted because the Applicant’s positive and mitigating equities did not outweigh the adverse factors in her case. We dismissed the Applicant’s appeal and a combined motion to reopen and reconsider on the same basis. The matter is now before us on a second combined motion to reopen and reconsider. Upon review, we will dismiss the motion.

The issue before us is whether the Applicant has submitted new facts supported by documentary evidence sufficient to warrant reopening her appeal or established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy. We find that the Applicant has not submitted new facts supported by documentary evidence sufficient to warrant reopening her appeal or established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision.

In support of the instant motion to reconsider, the Applicant again asserts that we erred in relying on her arrest history when reviewing the positive and negative factors in the case because “absent corroborating evidence supporting the allegations in the arrest reports, arrest reports alone should not be given any significant weight, let alone any weight.” The Applicant again cites *Matter of Arreguin*, 21 I&N Dec. 38, 42 (BIA 1995), and claims that our decision directly contradicts controlling precedent which held that adjudicators may not “give substantial weight to an arrest report, absent a conviction of corroborating evidence of the allegations contained therein.”

As we have previously explained, reliance on an arrest report in adjudicating discretionary relief—even in the absence of a criminal conviction—is permissible provided that the report is inherently reliable and its use is not fundamentally unfair. *See e.g., Matter of Grijalva*, 19 I&N Dec. 713, 722 (BIA 1988) (“[T]he admission into the record of . . . information contained in the police reports is especially appropriate in cases involving discretionary relief . . . , where all relevant factors . . . should be considered to determine whether an [applicant] warrants a favorable exercise of discretion.”). In

the absence of additional information or documentation which allows us to properly and fully consider the basis for and specific facts surrounding the Applicant's arrests, such as the underlying arrest report, records, or transcripts documenting her subsequent criminal proceedings, which were previously requested, there is insufficient evidence to establish that her arrests and the serious charges levied against her, should not be considered as adverse factors in her case or, alternatively, that lesser weight should be accorded to such evidence.

In regard to the Applicant's request to reopen the proceedings because she contends that she has established that she merits a favorable exercise of discretion, all relevant factors are considered when making a discretionary determination. *See* 8 C.F.R. § 245.24(b)(6). The Applicant details with the instant motion that she has not been arrested in more than six years, she has paid her taxes for many years, and friends have written letters in support of her request for the benefit sought. We acknowledge that the documentation on motion establishes that her last arrest was in [ ] 2016, more than six years ago. We also acknowledge the two letters submitted with the instant motion from friends, attesting to the Applicant's "sincere heart" and her "regret that what she did was a big mistake" but her only way to survive at that time. We also acknowledge the documentation submitted on motion establishing the Applicant's payment of taxes from 2013 to 2021.

Notwithstanding the positive factors in the case, we again conclude that the Applicant has not demonstrated that she merits a favorable exercise of discretion to adjust her status to that of an LPR. Here, the record shows that the Applicant was arrested six times on prostitution-related charges between 2007 and 2016, five of which resulted in a disorderly conduct violation or deferred prosecution. Although the Applicant was not convicted of prostitution, her history of prostitution-related arrests indicates a pattern of behavior that is considered highly unfavorable within multiple provisions of the Act. *See, e.g.*, section 212(a)(2)(D) of the Act (providing, in pertinent part, that individuals who have engaged in prostitution within the past ten years are inadmissible); section 101(f)(3) of the Act (precluding individuals described in section 212(a)(2)(D) of the Act from establishing that they are a person of good moral character). Furthermore, as detailed in our decision to dismiss the appeal, without the arresting officer's reports or other records from the subsequent criminal proceedings, we do not have sufficient information on the conduct that led to the Applicant's arrests to determine that a favorable exercise of discretion is warranted.

In conclusion, the Applicant has not submitted new facts supported by documentary evidence sufficient to warrant reopening her appeal or established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. While we acknowledge the positive factors in this case, as detailed in our previous decisions and above, the new evidence submitted on motion does not sufficiently impact the nature, recency, and seriousness of the Applicant's six prostitution-related arrests, including an arrest in 2016 during the pendency of the instant application, such that she has met her burden to establish that she warrants adjustment of status to that of an LPR as a matter of discretion.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.