



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

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

In Re: 29160646

Date: NOV. 16, 2023

Appeal of Vermont Service Center Decision

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

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 as the victim of a qualifying criminal activity who assisted law enforcement in the investigation and prosecution of the offense. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of a U Nonimmigrant (U adjustment application), and the matter is now before us on appeal.

The Applicant bears the burden of establishing her eligibility under section 291 of the Act, 8 U.S.C. § 1361, and must do so by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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). On appeal, the Applicant submits additional evidence, and copies of previously submitted documents. Upon de novo review, the appeal will be dismissed.

U.S. Citizenship and Immigration Services may adjust the status of a U nonimmigrant to that of an LPR if, among other requirements, she has been physically present in the United States for a continuous period of three years since the date of her 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 her admission as a U nonimmigrant or, in the alternative, an equivalent travel document or a valid explanation of why she does not have a passport. 8 C.F.R. § 245.24(d)(5).

To establish continuous physical presence for the requisite period, relevant regulations require that the applicant submit “a signed statement . . . attesting to continuous physical presence” and “additional documentation.” 8 C.F.R. § 245.24(d)(9). The regulations further specify that, “[i]f additional documentation is not available, the applicant must explain why in an affidavit and provide additional affidavits from others with first-hand knowledge who can attest to the applicant’s continuous physical presence by specific facts[.]” *Id.*

In accordance with section 232(b) of the Act, and as implemented by regulation, all applicants for adjustment of status are “required to have a medical examination by a designated civil surgeon, whose report setting forth the findings of the mental and physical condition of the applicant, including

compliance with” applicable health-related grounds of inadmissibility, “shall be incorporated into the record.” 8 C.F.R. § 245.5; *see also* section 212(a)(1) of the Act (articulating the health-related inadmissibility grounds). To satisfy this requirement, an applicant must submit a properly completed Form I-693, Report of Medical Examination and Vaccination Record (Medical Report) which must be valid at the time of final adjudication.

The Applicant, a native and citizen of Mexico, was granted U-1 nonimmigrant status from April 2018 to April 2022. She filed the instant U adjustment application in June 2021. The Applicant’s initial filing did not contain several pieces of required evidence. Therefore, the Director requested legible copies of all pages from cover to cover of the Applicant’s current and expired passports, evidence of her continuous physical presence from May 2021 through 2022, and her statement attesting to her continuous physical presence during U nonimmigrant status.

After receiving and reviewing the Applicant’s response, the Director denied the U adjustment application. The Director found that the Applicant had not complied with the requirements of 8 C.F.R. § 245.24(d)(5). Specifically, the Director noted that the Applicant provided a partial photocopy of her passports valid from January 2021 to January 2031, and March 2014 to March 2020. In addition, the Applicant did not submit her personal statement.¹ In the denial, the Director also noted that the previously submitted Medical Report was dated April 2021, and since more than 2 years had passed since its submission, it was no longer considered valid.

On appeal, the Applicant submits her personal statement, a complete photocopy of her expired passport valid from March 2014 to March 2020, and photocopies of various documents demonstrating her continuous physical presence from 2013 through 2023. However, the Applicant submits an incomplete and illegible photocopy of her current passport valid from January 2021 to January 2031. Specifically, page one of her current passport is missing, and the page numbers are faint. Upon de novo review, the record shows that the photocopy of the Applicant’s current passport submitted below did not include a photocopy of page one. Because the Applicant has not complied with the requirements of 8 C.F.R. § 245.24(d)(5), we must dismiss the appeal. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (stating that immigration regulations carry “the force and effect of law”).

The Applicant has not overcome the basis for the Director’s denial of her U adjustment application because the record does not contain a photocopy of all pages of all passports valid since the date of her admission as a U nonimmigrant, as 8 C.F.R. § 245.24(d)(5) requires. In addition, the Applicant’s Medical Report is expired and an updated one is required for adjustment of status. Thus, the Applicant is ineligible for adjustment of status under section 245(m) of the Act.

ORDER: The appeal is dismissed.

¹ We note that below, the Applicant submitted adequate evidence of her continuous physical presence in the United States from May 2021 through 2022, as requested in the RFE.