



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

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

In Re: 30996878

Date: MAR. 12, 2024

Appeal of Vermont Service Center Decision

Form I-485, Application to Register Permanent Residence or Adjust Status

The Applicant seeks to adjust her status to that of 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 application, concluding that the record did not establish that the Applicant was in valid U nonimmigrant status at the time she filed her Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application). 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.

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if, among other 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 and their continued presence is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest. Section 245(m) of the Act. Implementing regulations further require that the U nonimmigrant “continue[] to hold such status at the time of [the filing of the U adjustment] application . . . .” 8 C.F.R. § 245.24(b)(2)(ii).

The Applicant was granted U nonimmigrant status from March 26, 2018, until March 25, 2022. The Vermont Service Center marked her U adjustment application as received on March 28, 2022. As such, the Director denied her U adjustment application, concluding that the Applicant no longer held U nonimmigrant status at the time she filed her U adjustment application.

On appeal, the Applicant submits a brief and a copy of the United States Postal Service (USPS) proof of delivery. The USPS proof of delivery indicates that her U adjustment application package was “delivered, individual picked up at postal facility” at 9:51 a.m. on March 25, 2022. A review of the

record, which includes a copy of the mailing label listing the tracking number for her U adjustment application package, corroborates that the proof of delivery relates to her U adjustment application package. Although the Vermont Service Center did not mark her U adjustment application as received until March 28, 2022, the Applicant has established that the package was delivered and picked up by the Vermont Service Center on March 25, 2022, prior to the expiration of her U nonimmigrant status. As such, we withdraw the Director's determination, and remand the matter to the Director to determine whether the Applicant has satisfied the remaining eligibility requirements to adjust her 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.