



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

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

In Re: 31020468

Date: APR. 25, 2024

Appeal of Nebraska Service Center Decision

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

The Applicant seeks to become a lawful permanent resident (LPR) based on her “U-3” nonimmigrant status as the child of a victim of qualifying criminal activity under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m).

The Director of the Nebraska Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (adjustment application), concluding that the record did not establish that the Applicant had maintained her U status through the time of filing the adjustment application. The matter is now before us on appeal pursuant to 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 dismiss the appeal.

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if the noncitizen has been present in the United States for a continuous period of at least 3 years since the date of admission in U status; USCIS must also determine that adjustment of status is warranted in the exercise of discretion. Section 245(m) of the Act. By regulation, the adjustment application must be filed while the noncitizen continues to hold U nonimmigrant status. *See* 8 C.F.R. § 245.24(b)(2).

The Applicant was granted U nonimmigrant status as the qualifying child of her mother. Her U status was initially granted in August of 2011 and was valid through July 31, 2015. The Applicant requested, and was granted, two extensions of her U status. The second extension provided U status through April 16, 2020. The Applicant requested a third extension in 2020, but the third extension was denied. The applicant requested reconsideration of this denial multiple times but did not obtain a further extension of her U status. The Applicant filed this adjustment application in September 2020.

The Director denied the adjustment application, noting that the second extension of status expired April 16, 2020. As the adjustment application was not filed until September 25, 2020, the Applicant

had not maintained her U nonimmigrant status at time of filing.¹ Therefore, she was not eligible to adjust status to LPR as the recipient of a U nonimmigrant visa.

On appeal, the Applicant argues that the filing of her adjustment application was delayed by the unforeseen impacts of the COVID-19 pandemic. She argues that she did everything she could to file her case, but she could not receive assistance from USCIS or from legal services providers during the pandemic. She contends that USCIS has denied her due process by acknowledging the challenges of the pandemic and extending filing deadlines while not granting her the same flexibility. She also argues that her case should be reviewed *sua sponte*, and urges us to exercise discretion to reverse the denial of her extension request and thereafter grant her adjustment of status.

We are sympathetic to the difficulties the Applicant faced during the pandemic. However, our office does not have jurisdiction to consider appeals of extension of status requests. We are unable to provide the requested relief of granting an extension of status. We are also precluded from adjusting the Applicant's status as requested, because she did not meet the initial eligibility requirements at the time of filing. As noted above, the Applicant was not in U status when the adjustment application was submitted. The Applicant is correct that USCIS granted applicants additional time to respond to requests or notices during the COVID-19 pandemic. *See* USCIS Alert, "USCIS Extends COVID-19-related Flexibilities," (Jan. 24, 2023), <https://www.uscis.gov/newsroom/alerts/uscis-extends-covid-19-related-flexibilities-1>. However, these flexibilities did not allow for the initial eligibility requirements of benefits applications to be waived. Here, the Applicant was required to submit the adjustment application while maintaining her U status. Because her adjustment application was filed after her status had expired, she did not meet the filing requirements and does not qualify for adjustment of status.

ORDER: The appeal is dismissed.

¹ The Director indicated that the "records contain no evidence" of a request to extend status. This was incorrect; as noted above, the Applicant did attempt to extend her status for a third time. However, this final extension request was denied.