U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27413706

Date: JUL. 13, 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 based on her "T" nonimmigrant status. *See* Immigration and Nationality Act (the Act) section 245(l), 8 U.S.C. § 1255(l). The Director of the Vermont Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (T adjustment application), concluding that the Applicant was not in T nonimmigrant status at the time she filed her T adjustment application. On appeal, the Applicant submits a brief and asserts that she is eligible for the benefit sought. This office reviews the questions in this matter de novo. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, the appeal will be dismissed.

An applicant who has been admitted to the United States as a T-1 nonimmigrant may adjust status to that of a lawful permanent resident at the discretion of U.S. Citizenship and Immigration Services (USCIS) if, among other requirements, he or she has been physically present in the United States for a continuous period of at least three years since the date of admission as a T nonimmigrant (or alternatively, has been physically present in the United States for a continuous period during the investigation or prosecution of acts of trafficking and that, in the opinion of the Attorney General, the investigation or prosecution is complete, whichever period of time is less); continues to hold such status at the time of filing the T adjustment application; and has been a person of good moral character. Section 245(l)(1) of the Act; 8 C.F.R. § 245.23(a).

In September 2014, USCIS granted the Applicant T nonimmigrant status until September 28, 2018. The Applicant filed the T adjustment application which is the basis of the instant appeal on August 4, 2020. In August 2022, the Director denied the T adjustment application because the Applicant was not in T nonimmigrant status at the time she filed her T adjustment application, as 8 C.F.R. § 245.23(a)(2)(ii) requires.

In her brief on appeal, the Applicant concedes that she was not in T nonimmigrant status at the time she filed the T adjustment application which is the basis of the instant appeal. Nevertheless, she contends that when she filed her first T adjustment application in February 2015, she was in valid T status and thus, she is eligible for the benefit sought.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

As noted by the Director, the Applicant's February 2015 T adjustment application was denied on March 16, 2020 and her T nonimmigrant status therefore expired on said date. The record does not contain any evidence that the Applicant was in T nonimmigrant status at the time she filed the T adjustment application which is the basis for the instant appeal. Accordingly, the record demonstrates that the Director correctly found that the Applicant was ineligible for adjustment of status at the time of filing pursuant to the requirement at 8 C.F.R. § 245.23(a)(2)(ii).

ORDER: The appeal is dismissed.