



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

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

In Re: 18072283

Date: FEB. 16, 2022

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of 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. The Director of the Vermont Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application). The matter is now before us on appeal. The Administrative Appeals Office (AAO) reviews all 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 remand the matter to the Director for the issuance of a new decision.

I. LAW

Section 245(m) of the Act contains the eligibility requirements for individuals seeking to adjust status to that of an LPR based on having been granted U nonimmigrant status. In addition, an applicant for adjustment of status is required to submit a certified copy of their birth certificate or secondary evidence that meets the requirements of 8 C.F.R. § 103.2(b)(2). *See also* 8 C.F.R. § 103.2(a)(1) (explaining that every benefit request submitted to U.S. Citizenship and Immigration Services (USCIS) must be executed and filed in accordance with the form’s instructions, which are incorporated into the regulations requiring its submission); Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status (Mar. 29, 2021 ed.), at 9 (Form I-485 Instructions) (requiring all applicants for adjustment of status to submit a copy of their birth certificate issued by the appropriate civil authority, or proof of its unavailability or nonexistence and acceptable alternative evidence of birth). The applicant bears the burden of establishing eligibility and must do so by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 245.24(b); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant, a native and citizen of Honduras, entered the United States without inspection in March 2005. The Applicant was granted U nonimmigrant status from October 2013 until October 2017, and her U nonimmigrant status was subsequently extended through the filing and approval of a Form I-539, Application to Extend/Change Nonimmigrant Status, until February 2020. She timely filed the instant U adjustment application in July 2019.

Through a request for evidence (RFE), the Director noted that the Applicant did not submit initial required evidence including a copy of a valid Honduran birth certificate. Regarding the birth certificate, the Director stated that, “the required document for births in Honduras is the *Copia de Folio del Libro de Nacimientos* (or *Inscripción de Nacimiento*), issued and certified by the [*Registro Nacional de las Personas* (RNP)].” In response to the RFE, the Applicant provided additional evidence including a copy of a *Certificación Literal de Acta de Nacimiento* issued and stamped by the RNP and certificates, also from the RNP, confirming its authenticity. The Director subsequently denied the U adjustment application. The Director highlighted that the *Certificación Literal de Acta de Nacimiento* was not accompanied by a certified English translation of the same. See 8 C.F.R. § 103.2(b)(3) (“Any document containing foreign language submitted to USCIS shall be accompanied by a full English translation which the translator has certified is complete and accurate, and by the translator’s certification that [they are] competent to translate from the foreign language into English.”). The Director further highlighted that the certifying documents accompanying it contained a discrepancy regarding the Applicant’s legal name, listing it as Y-S-G-, as opposed to Y-A-G-, her legal name as listed on her U adjustment application.

On appeal, the Applicant again provides a copy of her original birth certificate issued and certified by the RNP and the certificates, also from the RNP, confirming its authenticity. Both are accompanied by an English translation as required by 8 C.F.R. § 103.2(b)(3). The Applicant has also submitted a personal statement explaining the discrepancy noted by the Director regarding her legal name. Because this evidence is material to the Director’s ground for denial of the Applicant’s U adjustment application, we will remand the matter to the Director to redetermine whether she has satisfied the requirements of 8 C.F.R. § 103.2(b)(2) and otherwise established eligibility to adjust her status to that of an LPR under section 245(m) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded to the Director for issuance of a new decision consistent with the foregoing analysis.