



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

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

In Re: 26293436

Date: APR. 20, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application to Adjust Status of U Nonimmigrant

The Applicant seeks to become a lawful permanent resident (LPR) based on their “U” nonimmigrant status. *See* Immigration and Nationality Act (the Act) section 245(m), 8 U.S.C. § 1255(m). The U nonimmigrant classification affords nonimmigrant status to crime victims, who assist authorities investigating or prosecuting the criminal activity, and their qualifying family members. The U nonimmigrant may later apply for lawful permanent residency.

The Director of the Vermont Service Center denied the Form I-485, Application to Adjust Status of U Nonimmigrant (U adjustment application), concluding that the Applicant did not submit the required documentation to establish her birth in Honduras. 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 dismiss the appeal.

I. LAW

U.S. Citizenship and Immigration Services 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 they establish that their continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest. Section 245(m) of the Act.

Section 245(m) of the Act contains the eligibility requirements for individuals seeking to adjust status to that of a LPR based on having been granted U nonimmigrant status. The Applicant’s burden includes complying with and submitting the documentation described in the U adjustment application’s instructions. *See* 8 C.F.R. § 103.2(a)(1) (stating that every form, benefit request, or other document must be submitted and executed in accordance with form instructions which are incorporated into the regulations requiring its submission). U adjustment application instructions

require applicants to submit a photocopy of their birth certificate issued by the appropriate civil authority from the country of their birth.

II. ANALYSIS

The record reflects that the Applicant, a native and citizen of Honduras, was granted U-1 nonimmigrant status from October 2017 until October 2021, and timely filed her U adjustment application in November 2020. The Director issued a request for evidence (RFE) for the Applicant's birth certificate called Copia de Folio del Libro de Nacimientos, issued by the Registro Nacional de las Personas (RNP), in compliance with the U.S. Department of State Reciprocity Schedule for documentation of births in Honduras. The Applicant responded to the RFE by submitting her Certificacion de Acta de Nacimiento. In denying the application, the Director cited to the U adjustment application directions which provide that a birth certificate issued by the appropriate civil authority must be submitted, and the Applicant did not submit her Copia de Folio del Libro de Nacimientos, which is the required evidence of birth in Honduras. The Director denied the U adjustment application as it lacked the proper documentation required by regulation.

On appeal, the Applicant, who was born prior to 1984, submits an affidavit and translation from her daughter indicating she went to the Civil Registry of Arenal to obtain a copy of the Applicant's birth certificate, an affidavit from counsel's legal assistant regarding efforts to obtain the birth certificate, and previously submitted documents. The Applicant mentions that her official birth certificate is in a fragile, heavy book that cannot be moved to a photocopy machine, and she has submitted a photo of her original birth certificate, with translation, located in the RNP and bearing the stamp of the RNP. Additionally, she states that her daughter and counsel's legal assistant asked for the "Folio del Libro de Nacimientos" from the RNP official and that document does not exist.

8 C.F.R. § 103.2(a)(1) provides:

Preparation and submission. Every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions, notwithstanding any provision of 8 CFR chapter 1 to the contrary, and such instructions are incorporated into the regulations requiring its submission.

Further, application procedures for U nonimmigrants at 8 C.F.R. § 245.24(d)(1) indicate that such applicants for adjustment of status must submit an adjustment application in accordance with the form instructions. Adjustment applications require the submission of a birth certificate by applicants. *Instructions for Application to Register Permanent Residence or Adjust Status*, <https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf>.

Officers adjudicating adjustment of status applications are instructed to check the Department of State's Country Reciprocity Schedule to determine availability of birth certificates as well as acceptable secondary evidence of birth for specific countries. 7 *USCIS Policy Manual* A.4(A)(3), <https://www.uscis.gov/policymanual>.

The Department of State's Reciprocity Schedule for Honduras provides that birth certificates are available, the document is called Copia de Folio del Libro de Nacimientos, the issuing authority is the

RNP, and documents issued prior to 1984 may be hand-written with the RNP stamp or logo on the document. *U.S. Reciprocity Schedule for Honduras*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Honduras.html>.

The Applicant has submitted a two-page document in Spanish, but it does not include an English translation despite the Applicant indicating a translation was submitted. Attached to this document is another page in Spanish with an RNP stamp which provides, in part, “Copia Fiel del Original Tomo 32 Folio 227-228 Acta 00025 Ano 1964 Arenal, 09-11-2022.” The attachment includes an English translation which states “Its Trustful [sic] copy of the original Volume 32 Page 227-228 Certificate 00025 year 1964 Arenal, 11/09/2022.”

Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Without a full English translation for the two-page document, we cannot meaningfully determine if it is the Applicant’s Copia de Folio del Libro de Nacimientos, the required of evidence of birth in Honduras, and the overall contents of the document.

Based on the record, the Applicant has not provided the required documentation to establish her birth in Honduras and therefore she is ineligible to adjust status to that of a LPR based on having been granted U nonimmigrant status.

ORDER: The appeal is dismissed.