



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

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

In Re: 25297989

Date: MAR. 9, 2023

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 for Adjustment of Status of a U Nonimmigrant (U adjustment application) because the Applicant had not provided a sufficient birth certificate. The matter is now before us on appeal. 8 C.F.R. § 103.3. 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 remand the matter to the Director for the issuance of a new decision.

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 proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

The record reflects that the Applicant, a native and citizen of Honduras, was granted U-1 nonimmigrant status from May 2017 until May 2021, which was later extended through January 18, 2023. She timely filed the instant U adjustment application in July 2020. In support of her U adjustment application, the Applicant submitted a copy of her Honduran birth certificate. The Director issued a request for evidence (RFE), explaining that this birth certificate was not sufficient because it did not comport with the U.S. Department of State’s Reciprocity Schedule for Honduras, which indicated that only the document named Copia de Folio del Libro de Nacimientos (Copy of Birth Folio) issued and certified by the Registro Nacional de las Personas (RNP) are acceptable for

immigrant visa purposes.¹ In her response to the RFE, the Applicant submitted a Certificacion de Acta de Nacimiento Ano del Bicentenario issued by the RNP, a copy of the handwritten birth certificate issued by the municipality with the RNP stamp, and certified English translations. The Director determined that the birth certificate submission was still not sufficient and denied the U adjustment application, concluding that the Applicant was ineligible for adjustment of status because she did not submit the proper documentation required under the regulations at 8 C.F.R. 103.2.

On appeal, the Applicant explains that the Honduran government did not establish the RNP until 1984, therefore there was no Copia de Folio del Libro de Nacimientos issued by the RNP when she was born in 1957. She further explains that at the time of her birth, certificates were registered and issued by the municipality. The reciprocity schedule indicates that alternative evidence of birth in Honduras may include birth folios prior to 1984 that are handwritten with the RNP stamp or logo on the document. The Applicant now submits a certificate of vital records issued and certified by the RNP detailing her birth and a letter from the Assistant Registrar at the RNP explaining that the registration of births before 1984 were carried out the civil registries of municipal city halls.

The Applicant has provided new evidence that the Director has not had the opportunity to review. As such, we will remand the matter for the issuance of a new decision.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

¹ U.S. Department of State, *U.S. Visa: Reciprocity and Civil Documents by Country, Honduras*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Honduras.html>.