



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

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

In Re: 26610158

Date: MAY 26, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status

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 his “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of U Nonimmigrant (U adjustment application), and 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

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.

The Applicant, a citizen of Honduras, was granted U-1 nonimmigrant status from June 2017 until June 2021, and timely filed his U adjustment application in September 2020. The Director issued a request for evidence (RFE) for additional documentation and noted, in relevant part, that the submitted Honduran birth certificate was not sufficient because it did not comport with the U.S. Department of

State's Reciprocity Schedule, which indicated that only birth certificates issued and certified by the Registro Nacional de las Personas (RNP) were acceptable for immigrant visa purposes. The Director subsequently denied the U adjustment application, concluding that the Applicant did not provide a sufficient birth certificate, a Copia de Folio del Libro de Nacimientos issued by the RNP, with his RFE response.

On appeal, the Applicant submits a copy of his birth registration document issued and certified by the RNP with certified English translation. Because the record does not indicate that the Director had an opportunity to review this new evidence, we will remand the matter to the Director to consider it in the first instance, and further determine whether the Applicant has satisfied the remaining eligibility requirements to adjust his status to that of an LPR under section 245(m) of the Act.

**ORDER:** The Director's decision is withdrawn.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