



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

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

In Re: 32599949

Date: APR. 25, 2024

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 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 a copy of a foreign birth certificate that meets the regulatory requirements. 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.

I. LAW

U.S. Citizenship and Immigration Services (USCIS) 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.

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 February 2018 until February 2022, and timely filed her U adjustment application in December 2021. The Director issued a request for evidence (RFE) asking for a Honduran birth certificate for the Applicant in the form of a Copia de Folio del Libro de Nacimientos (or Inscripción de Nacimiento). The Applicant responded with a Honduran birth certificate titled Certificación de acta de Nacimiento, the same document she provided initially with her U adjustment application. In denying the U adjustment application, the Director stated that the Applicant did not submit her Copia de Folio del Libro de Nacimientos (or Inscripción de Nacimiento). The Director mentioned that her Certificación de acta de Nacimiento did not comply with the required guidance in the Department of State Reciprocity Schedule for documentation of births in Honduras. Therefore, the Director determined that the Applicant did not provide a birth certificate as required by U adjustment application instructions. The Director also noted that the Applicant's Form I-693, Report of Immigration Medical Examination and Vaccination Record (medical examination), expired, but this issue would not be addressed as the U adjustment application was otherwise deniable.

On appeal, the Applicant submits a brief, a copy of her Inscripción de Nacimiento with an English translation, a new medical examination, immigration records, birth certificates for her children, and a statement. As the Applicant has provided new and material evidence that the Director has not had the opportunity to review, we will remand the matter to the Director to consider this evidence in the first instance and further determine whether the Applicant has satisfied the remaining eligibility requirements to adjust her 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.