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U.S. Citizenship
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FILE: [Redacted]
SRC 04 066 51573

Office: TEXAS SERVICE CENTER

Date: OCT 14 2005

IN RE: Applicant: [Redacted]

APPLICATION: Application to Register Permanent Residence or Adjust Status Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director, Texas Service Center, denied the Application to Register Permanent Residence or Adjust Status (Form I-485). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

On January 5, 2004, the applicant filed a Form I-485 based upon a Petition for Immigrant Worker, Form I-140, filed on his behalf as an alien with extraordinary ability under section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). On February 10, 2005, this Form I-140 petition was denied. That same day, the director denied the applicant's Form I-485 due to the denial of the underlying I-140 petition. The applicant filed an appeal from the denial of the Form I-485¹ on February 25, 2005 and states, "I have many year 1974 to work life [sic]. I perfect life please try to get my resident permant [sic] for my long life here USA. Thank you. God Bless you."

The regulation at 8 C.F.R. § 245.2(a)(5)(ii) provides: "No appeal lies from the denial of an application by the director, but the applicant, if not an arriving alien, retains the right to renew his or her application in proceedings under 8 CFR part 240." The regulation at 8 C.F.R. § 103.1(f)(3)(iii)(JJ) (as in effect on February 28, 2003) provides that the AAO has jurisdiction over adjustment applications "when denied solely because the applicant failed to establish eligibility for the bona fide marriage exemption contained in section 245(e) of the Act."

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003).

As the jurisdiction over the appeal in this case does not lie with the AAO, the appeal must be rejected.

ORDER: The appeal is rejected.

¹ The petitioner references the receipt number of the Form I-485 and attaches a copy of the decision denying the Form I-485 to his appellate submission.