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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
EAC 03 087 50613

Office: VERMONT SERVICE CENTER

Date: JUL 20 2006

IN RE: Applicant: [REDACTED]

PETITION: 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, Chief
Administrative Appeals Office

DISCUSSION: The application to register permanent residence or adjust status was denied by the director, Vermont Service Center. The applicant filed an appeal of this application on Form I-290B, Notice of Appeal to the Administrative Appeals Office (AAO).¹ Thus, the appeal was forwarded to this office. The appeal will be rejected.

The applicant seeks to adjust status to that of lawful permanent resident under section 245(a) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(a). The director denied the application on December 7, 2004.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) 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); *see also* 8 C.F.R. § 2.1 (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), with two exceptions - petitions for approval of schools under § 214.3 are now the responsibility of Immigration and Customs Enforcement (ICE), and applications for S nonimmigrant status under § 214.2(t) are now the responsibility of the Fraud Detection and National Security (FDNS) office of CIS. The regulations allow for the AAO to adjudicate an appeal from the denial of an application to register permanent residence or adjust status filed under section 245(a) of the Act in very limited circumstances. The regulation grants the AAO appellate jurisdiction over section 245(a) adjustment applications only “when denied solely because the applicant failed to establish eligibility for the bona fide marriage exemption contained in section 245(e) of the Act.” *See* 8 C.F.R. § 103.1(f)(e)(E)(iii)(JJ), (as in effect on February 28, 2003). The instant appeal does not fall within those limited circumstances. Therefore the AAO does not have jurisdiction over the instant appeal.

ORDER: The appeal is rejected.²

¹ The Form I-290B indicates that the applicant retained counsel to file the appeal. Although counsel states on the Form I-290B that it represents the applicant, no Form G-28 was submitted signed by both counsel and the applicant. Therefore, the AAO considers the applicant self-represented in connection with the instant appeal. This office notes that the record of proceeding contains a properly executed Form G-28 signed by the applicant’s representative and an attorney different than counsel filing the appeal.

² This office notes that the applicant stated on appeal that she would submit a brief and/or evidence to the AAO within 30 days. The appeal was received by the Vermont Service Center on January 4, 2005. As of this date, more than 18 months later, the AAO has received nothing further. As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The applicant has not specifically addressed the reasons stated for denial and has not provided any additional evidence. She has not even expressed disagreement with the director’s decision. Therefore, the appeal may have been alternatively summarily dismissed.