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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

A1

FILE:

Office: PHOENIX, AZ

Date:

MAY 12 2010

IN RE:

APPLICATION:

Application for Permanent Residence Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

ON BEHALF OF APPLICANT:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that the applicant is a citizen of Mexico and the beneficiary of an approved Form I-130, Petition for Alien Relative, filed by her U.S. citizen spouse. On June 14, 2006 the applicant filed an Application to Register Permanent Resident or Adjust Status (Form I-485). On October 11, 2006 the applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601) to overcome the ground of inadmissibility related to unlawful presence. On August 20, 2007 the field office director denied the applicant's Form I-485 for abandonment on the basis of the applicant's departure from the United States. On the same day, the field office director denied the applicant's Form I-601 due to the underlying Form I-485 being denied.

In a statement attached to the Notice of Appeal to the AAO (Form I-290B) dated September 17, 2007, counsel states that he is requesting the AAO reverse the field officer's decision denying the applicant's I-485 application.

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). Unless a decision is certified to the AAO by a field office, the AAO does not have jurisdiction over this type of I-485 filed under section 245 of the INA. Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.