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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: WASHINGTON, D.C.

Date:

JUN 23 2008

IN RE:

Applicant:



APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of
September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Newark, New Jersey and appealed to the Administrative Appeals Office (AAO). The decision was withdrawn and the matter was referred to the Washington District Office for a new decision. The Field Office Director, Washington, D.C., issued a decision denying the application and certified the decision for review to the AAO. The decision will be affirmed.

The applicant is a native and citizen of the Philippines who is seeking to adjust his status to that of lawful permanent resident under section 13 of the Act of 1957 ("Section 13"), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as an alien whose family member performed diplomatic or semi-diplomatic duties under section 101(a)(15)(G)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(G)(i).

The field office director denied the Application to Register Permanent Residence or Adjust Status (Form I-485) of the applicant's mother after determining that the applicant's mother had failed to demonstrate that compelling reasons prevent her and her family's return to the Philippines. *Decision of Field Office Director*, dated January 24, 2008. The field office director denied the applicant's adjustment application on the basis of his mother's ineligibility for benefits under Section 13.

In a separate decision, the AAO has affirmed the decision of the field office director on the ground that the applicant's mother failed to establish compelling reasons that prevent her return to the Philippines as required under Section 13. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of his mother, the applicant therefore is also ineligible for adjustment of status.

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. The applicant has failed to meet that burden. Accordingly, the decision of the field office director is affirmed.

ORDER: The decision of the field office director is affirmed.