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U.S. Citizenship
and Immigration
Services

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FILE:

Office: WASHINGTON DISTRICT

Date:

OCT 16 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 Field Office Director, Washington, D.C. and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Bolivia who is seeking to adjust her 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 admitted under section 101(a)(15)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(i), and the family member of a principal alien admitted under section 101(a)(15)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(i), who performed diplomatic or semi-diplomatic duties.

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 she had failed to demonstrate that her spouse performed diplomatic or semi-diplomatic duties, that he failed to maintain diplomatic status, that compelling reasons prevent her return to Bolivia, or that adjustment is in the national interest. *Decision of Field Office Director*, dated November 16, 2007. The field office director denied the applicant's adjustment application on the basis of the principal alien's ineligibility for benefits under Section 13. Counsel has appealed the decision.

In a separate decision, the AAO has dismissed the appeal of the applicant's mother on the ground that she failed to establish compelling reasons that prevent her and her spouse's return to Bolivia as required under Section 13. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of her father, and the applicant has not asserted any compelling reasons other than those asserted by her 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 she is eligible for adjustment of status. The applicant has failed to meet that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.