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

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



AUG 15 2003

Date:

FILE:



Office: Chicago

IN RE: Applicant:



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

ON BEHALF OF APPLICANT:



PUBLIC COPY

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant is a native and citizen of Mexico who is seeking to adjust her status to that of a lawful permanent resident, pursuant to section 245 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255. The applicant is the beneficiary of an immediate relative visa petition filed by her United States citizen husband.

The district director determined that the applicant failed to respond to his request for evidence of her arrest and conviction. Therefore, on October 11, 2002, the district director denied the application due to lack of prosecution or abandonment.

Based on a motion to reopen received by the Service on October 25, 2002, the district director, on November 19, 2002, determined that the motion could not be considered because (1) the motion to reopen was not accompanied by the proper fee, (2) the applicant's attorney did not file a Form G-28 listing him as the attorney of record, and (3) the applicant still had not provided the documentation requested.

On December 26, 2002, the applicant appealed the district director's decision.

Pursuant to 8 C.F.R. § 245.2(a)(5)(ii), no appeal shall lie from the denial of an application [under section 245 of the Immigration and Nationality Act] by the district director, but such denial shall be without prejudice to the alien's right to renew the application in proceedings under 8 C.F.R. § 240. The appeal in this case is not within the jurisdiction of the AAO. Therefore, the appeal will be rejected.

ORDER: The appeal is rejected.