U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: SAN JUAN, PUERTO RICO Date: OCT 07 2004

IN RE: Applicant: [redacted]

APPLICATION: Application to Preserve Residence for Naturalization Purposes under section 316(b) of the Immigration and Nationality Act, 8 U.S.C. § 1427.

ON BEHALF OF APPLICANT:

[redacted]

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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The application was denied by the District Director, San Juan, Puerto Rico, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant seeks to preserve her residence for naturalization purposes under section 316(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1427(b), as a lawful permanent resident who was absent from the United States (U.S.) for the purpose of engaging in the development of foreign trade and commerce of the United States on behalf of an American firm or corporation, or a subsidiary thereof.

The district director determined that the applicant was not eligible for benefits under section 316(b) of the Act because she filed her Application to Preserve Residence for Naturalization Purposes (Form N-470) after she had been outside of the United States for a continuous period of more than one year. The application was denied accordingly.

On appeal, the applicant asserts that although she travels to the Dominican Republic for employment purposes, she has continuously resided in Puerto Rico, and has never been absent from the U.S. for a period of one year or more.

Section 316(b) of the Act provides, in pertinent part that:

> [A]bsence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship . . . shall break the continuity of such residence except that in the case of a person who has been physically present and residing in the United States after being lawfully admitted for permanent residence for an uninterrupted period of at least one year and who thereafter . . . is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation . . . if --
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> > (1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General [now Secretary, Homeland Security, "Secretary"] that his absence from the United States for such period is . . . to be engaged in the development of such foreign trade and commerce . . . and
> >
> > (2) such person proves to the satisfaction of the Attorney General [Secretary] that his absence from the United States for such period has been for such purpose.

The record in the present matter contains federal income tax and W2 federal wage and tax statements filed by the applicant in 1999, 2000, and 2001, stating that she resides in Santo Domingo, Dominican Republic, and the record is devoid of any evidence to indicate that the applicant resides in Puerto Rico. The AAO therefore finds that the applicant has been absent from the U.S. for more than one year, and that she does not qualify for

preservation of her residence for citizenship purposes, under section 316(b) of the Act. The appeal will be dismissed accordingly.

ORDER: The appeal is dismissed.