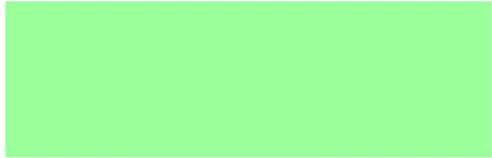


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U.S. Citizenship
and Immigration
Services



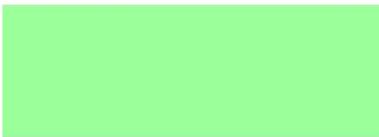
Date: Office: TEXAS SERVICE CENTER

JUN 11 2013

IN RE: Applicant:

Petition: Application to Register Permanent Residence or Adjust Status (Form I-485) Pursuant to Section 245(i) of the Immigration and Nationality Act, 8 U.S.C. § 1255(i)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Texas Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, initially denied the application to register permanent residence or adjust status (Form I-485). The director has certified his decision to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed. The application will be denied.

The applicant seeks to adjust her status to that of a lawful permanent resident pursuant to section 245(i) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1255(i). The director denied the application, finding that the applicant, as the spouse of an applicant who had been denied adjustment of status, was not eligible to adjust her status under section 245(i) of the Act, and he certified his decision to the AAO for review. The director denied the applicant's adjustment application on the basis of her spouse's ineligibility for adjustment of status under 245(i) of the Act. Counsel has appealed both decisions.

On notice of certification, counsel asserts that the applicant's spouse has established his eligibility to adjust status, and submits a brief for consideration.

In a separate decision, the AAO dismissed the appeal of the applicant's spouse concurring with the director's decision that the applicant had not demonstrated that he was eligible for adjustment of status under section 245(i) of the Act because the evidence did not support a finding that the applicant was the beneficiary of a labor certification application that was filed on or before April 30, 2001. Therefore, the principal applicant (the applicant's spouse) was ineligible to adjust his status pursuant to section 245(i) of the Act.

As the applicant's eligibility for adjustment under 245(i) of the Act derives from the eligibility of her spouse, the applicant is also ineligible for adjustment of status.

For the reasons discussed above, the AAO finds that the applicant's spouse is not eligible for adjustment under section 245(i) of the Act. 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.