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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **JUL 12 2010**

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF PETITIONER:
[REDACTED]

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 office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the Application to Register Permanent Residence or Adjust Status. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

When the director denied the Form I-485 adjustment application on October 7, 2009, the director correctly stated "This denial may not be appealed, but you may file a Motion to Reopen or Reconsider under 8 CFR 103.5." Form I-290B, Notice of Appeal or Motion, allows the filing party to choose between options marked "I am filing an appeal" and "I am filing a motion." Counsel, acting on the applicant's behalf, chose "I am filing an appeal." Therefore, the petitioner has not filed a motion to reopen or reconsider the application.

The AAO does not have appellate jurisdiction over an appeal from the denial of an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (the Act). The U.S. Citizenship and Immigration Services regulation at 8 C.F.R. § 245.2(a)(5)(ii) specifies "[n]o appeal lies from the denial of an application by the director."

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in her through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction only over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception - petitions for approval of schools and the appeals of denials of such petitions are now the responsibility of Immigration and Customs Enforcement.

The AAO has jurisdiction to review denials of applications for adjustment of status filed by aliens seeking the bona fide marriage exemption and aliens in U or T nonimmigrant status. Section 245(e), (l) and (m) of the Act, 8 U.S.C. § 1255(e), (l), (m); 8 C.F.R. §§ 245.1(c)(8)(viii), 245.23(i), 245.24(f)(2). The AAO has no jurisdiction to review denials of applications for adjustment of status under section 245(a) of the Act. By the plain wording of the regulation at 8 C.F.R. § 245.2(a)(5)(ii), the denial of such an application cannot be appealed. Accordingly, we must reject the appeal.

ORDER: The appeal is rejected.