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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: NEWARK, NEW JERSEY

Date: **MAY 05 2010**

IN RE:

[REDACTED]

APPLICATION: Application for Adjust Status to Permanent Residence under section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255.

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Newark, New Jersey. Counsel for the applicant submitted an appeal.¹ The appeal is rejected.

The applicant is a native and citizen of El Salvador who is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by his U.S. citizen brother on January 13, 1995. The Form I-130 was approved October 10, 1995 with a priority date of January 13, 1995. The applicant seeks to adjust his status to that of a permanent resident pursuant to section 245 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255 pursuant to the approved Form I-130.

Counsel for the applicant filed and paid a fee for a Form I-290B, Notice of Appeal or Motion. The AAO does not have appellate jurisdiction over an appeal from the denial of an application for adjustment of status under section 245 of the Immigration and Nationality Act (the Act). 8 C.F.R. § 245.2(a)(5)(ii).

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. 8 C.F.R. § 245.2(a)(5)(ii). Accordingly, the appeal must be rejected.

ORDER: The appeal is rejected.

¹ The field office director also certified her decision on the Form I-485 to the AAO for review. Upon review of the issue submitted by the director on certification and counsel's information improperly submitted on appeal but reviewed on certification, the AAO issued a separate decision on this same date.