

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

PUBLIC COPY

71

[Redacted]

File:

[Redacted]

Office: OAKLAND PARK, FLORIDA

Date: **MAY 24 2010**

IN RE:

Applicant:

[Redacted]

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:

[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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Oakland Park, Florida Field Office, denied the application for adjustment of status (Form I-485), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Colombia who filed this application for adjustment of status to that of a lawful permanent resident under section 245(i) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1255(i). On September 5, 2008, the director denied the applicant's Form I-485, Application to Register Permanent Resident or Adjust Status. On September 25, 2008, the applicant submitted an appeal from the director's denial of the I-485 application, which the director treated as a motion to reopen. The director affirmed her decision to deny the Form I-485 in a December 3, 2009 decision. On January 8, 2010, the director issued a Notice of Certification. A review of the language in this notice reveals that the intent of the director was to notify the applicant that she was forwarding the applicant's September 25, 2008 appeal to the AAO. The intent of the director was not to certify her decision to the AAO for review. Therefore, no separate decision on the Notice of Certification shall be entered.

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). 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.