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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: WASHINGTON DISTRICT

Date:

DEC 19 2007

IN RE:

Petitioner:

[REDACTED]

PETITION:

Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957

ON BEHALF OF PETITIONER:

[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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Washington, D.C., and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The AAO is reopening this matter on its own motion pursuant to 8 C.F.R. § 103.5(a)(5)(ii) for the purposes of entering a new decision. The previous decision will be withdrawn. The application will be approved.

The applicant is a native and citizen of Panama who is seeking to adjust his status to that of lawful permanent resident as the immediate relative of the principal applicant, his father, under section 13 of the Immigration and Nationality Act (the Act) of 1957, Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611.

The district director denied the application for adjustment of status on November 19, 1999, after determining that the principal applicant had failed to demonstrate he was unable to return to Panama or that his adjustment would serve U.S. interests. On appeal, the AAO found the principal applicant to have demonstrated eligibility for adjustment to lawful permanent resident status under section 13 of the 1957 Act, but concluded that the applicant was unable to benefit from his father's adjustment as he is no longer a child, as defined by section 101(b)(1) of the Act. Such reasoning was in error.

The adjustment of the applicant under section 13 of the 1957 Act does not require that he meet the statutory definition of child. Pursuant to 8 C.F.R. § 245.3, eligibility for adjustment of status under section 13 of the 1957 Act is available to the immediate family members of qualifying aliens who were admitted to the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Act and who performed diplomatic or semi-diplomatic duties. As the record establishes that the applicant in this matter was admitted to the United States as a dependent of the principal applicant, as defined at 8 C.F.R. § 214.2(a)(2), and the principal applicant has been found eligible for adjustment under section 13 of the 1957 Act, the applicant is also eligible for adjustment to lawful permanent resident status. Accordingly, the previous decision will be withdrawn and the application will be approved.

ORDER: The previous decision is withdrawn and the application is approved.