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U.S. Citizenship  
and Immigration  
Services

A 3

[REDACTED]

FILE:

[REDACTED]

Office: WASHINGTON DISTRICT

Date:

FEB 24 2009

IN RE:

[REDACTED]

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:

[REDACTED]

**INSTRUCTIONS:**

This is the decision 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).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, Washington, D.C. The matter is now before the Administration Appeals Office (AAO) on appeal. The appeal will be summarily dismissed. The application will be denied.

The applicant is a native and citizen of Pakistan who is seeking to adjust his status to that of lawful permanent resident under section 13 of the Act of 1957 ("Section 13"), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii).

The district director denied the application for adjustment of status after determining that the applicant had not established that compelling reasons prevent his return to Pakistan.

Section 13 of the Act of September 11, 1957, as amended on December 29, 1981, by Pub. L. 97-116, 95 Stat. 1161, provides, in pertinent part:

(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Act, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

Title 8 Code of Federal Regulations Part 245.3 states in pertinent part:

Any application for benefits under section 13 of the Act of September 11, 1957, as amended, must be filed on Form I - 485 with the director having jurisdiction over the applicant's place of residence. The benefits under section 13 are limited to aliens who were admitted into 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 Immigration and Nationality Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government which accredited the applicant and that adjustment of the applicant's status to that of an alien lawfully admitted for permanent residence would be in the national interest. 8 U.S.C. § 1255b(b).

Counsel for the applicant timely submitted a Form I-290B indicating that a brief and/or additional evidence would be submitted in 30 days. Counsel's statement on the Form I-290B reads:

CIS [United States Citizenship and Immigration Service (USCIS)] misconstrued the definition of "compelling circumstances." The applicant did indeed demonstrate "compelling circumstances" for being unable to return to Pakistan. Additional details will be provided in the subsequent brief.

On January 22, 2009, the AAO requested that counsel of record indicate whether she had submitted the referenced brief or evidence. To date, neither the applicant nor counsel has responded to the AAO's facsimile. Thus, the record is considered complete.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

Upon review of the record, neither the applicant nor counsel identifies specifically any erroneous conclusions of law or statements of fact made by the field office director as a basis for the appeal. The AAO is without further evidence or argument to evaluate regarding the applicant's failure to establish essential elements of eligibility for this benefit. Counsel and the applicant's failure to specifically address the field office director's findings and timely present evidence and argument identifying the field office director's erroneous conclusions of law or statements of fact mandate the summary dismissal of the appeal.

Inasmuch as the applicant has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

The application will be denied for the stated reason set out in the field office director's decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is summarily dismissed. The application is denied.