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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS2090
Washington, DC 20529-2090



U.S. Citizenship
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[Redacted]

FILE: [Redacted] Office: WASHINGTON DISTRICT Date: **MAR 15 2010**

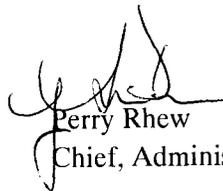
IN RE: [Redacted]

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.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Washington, DC and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Zimbabwe who is seeking to adjust his status to that of a 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 the immediate family member of an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(G)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(G)(i).

The field office director denied the application for adjustment of status of the applicant's spouse after determining that the applicant's spouse had failed to demonstrate that compelling reasons prevent her return to Zimbabwe. The field office director denied the applicant's adjustment application on the basis of his spouse's ineligibility for benefits under Section 13. Counsel has appealed both decisions.

The AAO rejected the applicant's spouse's appeal as untimely filed. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of his spouse, and as the applicant also filed his Form I-290B untimely, this appeal is also rejected.

ORDER: The appeal is rejected.