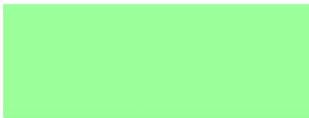




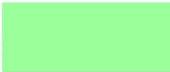
U.S. Citizenship
and Immigration
Services

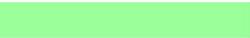
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Date: JUN 28 2013

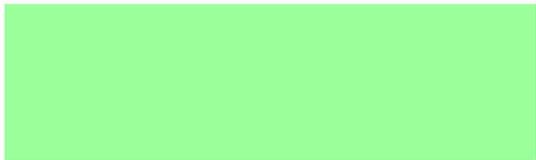
Office: WASHINGTON DISTRICT

File: 

IN RE: Applicant: 

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron M. Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Washington, D.C. and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). A subsequent motion to reopen and reconsider to the AAO was dismissed as untimely. The matter came before the AAO on a second motion to reopen and reconsider which was affirmed in part and dismissed in part. The matter is again before the AAO on a third motion to reopen and reconsider.¹ The AAO's previous decision will be affirmed. The application will remain denied.

The applicant is a native and citizen of Pakistan who is seeking to adjust her 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 the dependent relative of 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 field office director denied the application for adjustment of status of the applicant's father after determining that he had failed to demonstrate that he performed semi-diplomatic or diplomatic duties and that compelling reasons prevent his return to Pakistan and that adjustment would be in the national interest. *Decision of Field Office Director*, dated May 13, 2008. The field office director denied the applicant's adjustment application on the basis of her father's ineligibility for benefits under Section 13. Counsel appealed both decisions. In a separate decision, the AAO dismissed the appeal of the applicant's father on the grounds that he failed to establish that he performed diplomatic or semi-diplomatic duties and that he failed to establish compelling reasons that prevent his return to Pakistan as required under Section 13. As the applicant's eligibility for adjustment under Section 13 derived from the eligibility of her father, and the applicant had not asserted compelling reasons separate from those claimed by her father, the AAO also determined that the applicant was ineligible for adjustment of status.

On a previous motion, the AAO withdrew its previous determination that the applicant's father had not established that he performed diplomatic or semi-diplomatic duties as an accountant for the Consulate General of Pakistan in New York and affirmed its previous decision that the applicant's father had not established that compelling reasons prevent his return to Pakistan. The AAO dismissed the current motion and affirmed its previous decision that the applicant's father had not established compelling reasons why he cannot return to Pakistan. The AAO did not discuss the issue regarding whether the applicant's father's adjustment of status would be in the national interest of the United States. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of her father, and the applicant has not provided new facts or pertinent precedent decisions separate from those claimed by her father, the AAO affirms its previous decision that the applicant had not established that compelling reasons prevent her return to Pakistan.

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that she is eligible for adjustment of status. The applicant has failed to meet that burden.

¹ On the Form I-290 completed and filed by counsel on October 17, 2012, counsel indicated at part 2A that he is appealing the AAO prior decision on the Form I-485. As there is no decision to be appealed, the AAO will treat the Form I-290B as a motion to reopen and reconsider. 8 C.F.R. § 103.5(8).

ORDER: The previous decisions of the AAO are affirmed. The application remains denied.