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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
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: APR 23 2009
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IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Application to Register Permanent Residence or Adjust Status Pursuant to Section 245 of the
Immigration and Nationality Act, 8 U.S.C. § 1255

ON BEHALF OF PETITIONER:



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.


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The director of the Nebraska Service Center denied the Application to Register Permanent Residence or Adjust Status (Form I-485). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant seeks adjustment of status to lawful permanent residency pursuant to section 245 of the Act, 8 U.S.C. § 1255. On May 14, 2008, the director denied the application pursuant to the regulation at 8 C.F.R. § 245.1(c).

On June 13, 2008, the applicant filed a Form I-290B, Notice of Appeal, and indicated that he was appealing the director's decision denying the Form I-485. The director's decision cannot be appealed. The regulation at 8 C.F.R. § 245.2(a)(5)(ii) states, in pertinent part: "No appeal lies from the denial of an application [to adjust status under section 245 of the Act] by the director, but the applicant, if not an arriving alien, retains the right to renew his or her application in proceedings under 8 CFR part 240."

In addition, the AAO has no jurisdiction to consider this appeal. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). The AAO only has jurisdiction over adjustment applications "when denied solely because the applicant failed to establish eligibility for the bona fide marriage exemption contained in section 245(e) of the Act." 8 C.F.R. § 103.1(f)(3)(iii)(JJ) (as in effect on February 28, 2003). The applicant's case does not fall within our jurisdiction.

No appeal lies from the director's decision denying the Form I-485 application and the AAO is without jurisdiction to consider the appeal. Accordingly, the appeal must be rejected.

ORDER: The appeal is rejected.