

(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

[Redacted]

Date: FEB 11 2014

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application to Adjust Status (Form I-485) for an Alien in U Nonimmigrant Status Pursuant to Section 245(m) of the Immigration and Nationality Act, 8 U.S.C. § 1255(m)

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

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

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director of the Vermont Service Center (the director), denied the Application to Adjust Status (Form I-485), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application will remain denied.

The applicant seeks lawful permanent residency under section 245(m)(1) of the Act, 8 U.S.C. § 1255(m)(1). The director denied the Form I-485 for the applicant's failure to demonstrate that his continued presence in the United States is justified, as a matter of discretion, on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

The regulation at 8 C.F.R. § 103.2(b)(13) states, in pertinent part:

Effect of failure to respond to a request for evidence... (i) Failure to submit evidence or respond to a notice of intent to deny. If the petitioner or applicant fails to respond to a request for evidence. . . by the required date, the benefit request may be summarily denied as abandoned, denied based on the record, or denied for both reasons. . . .

When filing the appeal, counsel submitted a brief, letters of support from the petitioner's family members, coworkers and friends, a toxicology report for the petitioner, a declaration from the petitioner, a psychological evaluation of the petitioner, letters of support, and reports on country conditions in Mexico. On August 2, 2013, the AAO issued a request for evidence (RFE) of the disposition of the applicant's June 6, 2012 arrest for possession of a narcotic controlled substance in California, a statement from the applicant explaining the arrest and disposition, and any other relevant documents, as this arrest had occurred after the applicant had filed the instant Form I-485. The applicant failed to respond to the RFE, and the AAO has received no further evidence or brief in support of the appeal. Accordingly, the appeal must be dismissed.

ORDER: The appeal is dismissed. The application remains denied.