



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: APR 01 2015

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application to Adjust Status for an Alien in T Nonimmigrant Status Pursuant to Section 245(l)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1255(l)(1)

ON BEHALF OF APPLICANT:

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
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center (the director), denied the Application to Register Permanent Residence or 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, who was granted T-3 nonimmigrant status, seeks to adjust her status under section 245(l)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(l)(1).

Section 245(l)(1) of the Act provides for the adjustment of status to lawful permanent residency of any person admitted under section 101(a)(15)(T)(ii) of the Act, 8 U.S.C. § 1101(a)(15)(T)(ii), as the derivative spouse, parent, sibling, or child of a T-1 nonimmigrant.¹ However, to be granted lawful permanent residency as a derivative family member, the T-1 nonimmigrant must establish his or her own eligibility to adjust status under the applicable statutory and regulatory requirements. See 8 C.F.R. § 245.23(b)(1).

On April 7, 2011, the director approved the applicant's Application for Immediate Family Member of T-1 Recipient (Form I-914, Supplement A). The applicant filed the instant Form I-485 on March 17, 2014. The director denied the application on August 11, 2014 because the Form I-914 adjustment application of the principal applicant (her parent) was denied.

In a separate proceeding, we found the applicant's T-1 nonimmigrant parent ineligible for lawful permanent residency under section 245(l)(1) of the Act and dismissed his appeal. As the applicant's eligibility to adjust status is dependent on her parent, we must also dismiss the instant appeal pursuant to the regulation at 8 C.F.R. § 245.23(b)(1).

In these proceedings, the burden of proving eligibility for the benefit sought remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.23(b). Here, that burden has not been met.

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

¹ Section 101(a)(15)(T)(ii) of the Act describes qualifying relatives eligible for derivative T nonimmigrant status. If the T-1 principal is twenty-one years of age or older, the spouse and children are qualifying family members eligible for derivative T status. Section 101(a)(15)(T)(ii)(II) of the Act, 8 U.S.C. § 1101(a)(15)(T)(ii)(II).