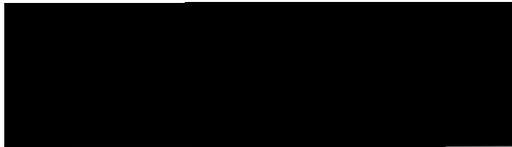




U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**



L2

FILE:

WAC 05 047 53047

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 19 2016**

IN RE:

Applicant:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the Application to Register Permanent Residence or Adjust Status based on the denial of the underlying employment-based immigrant petition filed in behalf of the applicant. The petitioner filed an appeal on Form I-290B, Notice of Appeal to the Administrative Appeals Office (AAO). Thus, the appeal was forwarded to this office. The appeal will be rejected.

Counsel provided the following reasons for appeal:

We are requesting the adjudicating officer to reopen and reconsider the denial. The beneficiary is the spouse and co-performer of an approved I-140 visa petition in the EB-1 extraordinary ability visa category in case WAC 05 047 52976 (see attached).

We are requesting that the California Service Center attach her I-485 application for permanent residency to her spouse's approved I-140 petition.

Counsel submitted a case status report stating that a notice "based on the approval *or registration* of this case" (emphasis added) was mailed May 13, 2005. This notice is not evidence that the visa petition was approved. Regardless, it is clear from the request relating to the applicant's I-485 adjustment application that the applicant seeks to reopen that application and not appeal the underlying immigrant visa petition.

The regulation at 8 C.F.R. § 245.2(a)(5)(ii) provides: "No appeal lies from the denial of an application 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." 8 C.F.R. § 103.1(f)(3)(iii)(JJ)(as in effect on February 28, 2003) provides that the AAO 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."

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).

As the jurisdiction over the appeal in this case does not lie with the AAO, the appeal must be rejected.

**ORDER:** The appeal is rejected.