

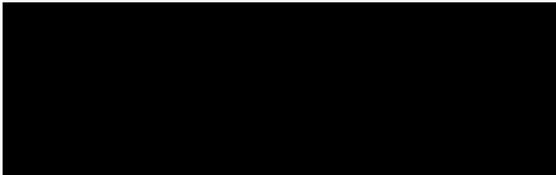
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



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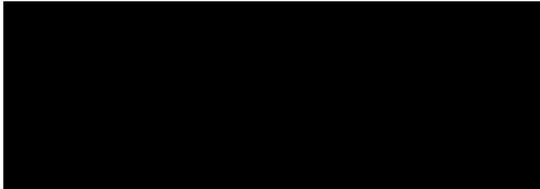
FILE: [REDACTED] Office: WASHINGTON DISTRICT

Date: **APR 04 2011**

IN RE: Applicant: [REDACTED]

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. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Washington, D.C. and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected and the matter remanded to treat as a motion to reopen or reconsider.

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 immediate family member 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 spouse after determining that the applicant's spouse had failed to establish that: he performed diplomatic or semi-diplomatic services; compelling reasons prevent his return to Pakistan; and adjustment of status would be in the national interest of the United States. The field office director denied the applicant's adjustment application on the basis of her spouse's ineligibility for benefits under Section 13. Counsel has appealed both decisions.

The AAO rejected the applicant's spouse's appeal as untimely filed and remanded the matter for the director to treat as a motion to reopen or reconsider. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of her spouse, this appeal is also rejected and remanded to the director to treat as a motion to reopen or reconsider.

ORDER: The appeal is rejected. The application is remanded to the director to treat the appeal as a motion and enter a new decision into the record.