

PUBLIC COPY

Identifying data should be redacted to prevent clearly unwarranted invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

AI

APR 20 2004

[Redacted]

FILE: [Redacted]

Office: HARTFORD, CT

Date:

IN RE: Applicant: [Redacted]

APPLICATION: 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 APPLICANT:

[Redacted]

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, Director
Administrative Appeals Office

DISCUSSION: The Application to Register Permanent Residence or Adjust Status (Form I-485) was denied by the District Director, Hartford, Connecticut. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native of Guatemala, born on May 19, 1971. He entered the United States without inspection in 1988. On April 12, 2001, the applicant filed Form I-485. Counsel states that the I-485 application is based upon an approved Petition for Alien Relative (Form I-130), as the unmarried son of a permanent resident under section 203(a)(2)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(a)(2)(B).

In his decision, the director states that the applicant was given 90 days in which to submit evidence of an approved petition. Counsel submitted a letter dated May 18, 1990, from the American Embassy, Guatemala City, Guatemala, indicating the applicant's name, preference category, and priority date. Although it appears the applicant has an approved petition, the director deemed the application abandoned in accordance with 8 C.F.R. § 103.2(b)(13). Counsel subsequently filed an appeal.

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

(15) *Effect of withdrawal or denial due to abandonment.* A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under § 103.5.

The regulation cited above precludes the AAO from considering any appeal that is filed pursuant to the denial of an application due to abandonment. Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.