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U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

MAY 06 2004

FILE: [redacted] Office: PHILADELPHIA, PA 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.

Marie Johnson

for 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, Philadelphia, Pennsylvania. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Jamaica, born on May 30, 1963. The applicant was initially admitted into the United States as a C-1 crewman, on July 2, 1999 until July 15, 1999. On June 15, 2001, the applicant filed Form I-485. His application is based upon an approved Petition for Alien Relative (Form I-130) as the spouse of a United States citizen under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1151(b)(2)(A)(i). On June 15, 2001, the applicant applied for an advance parole document and was granted such document on the same date. He was later paroled into the United States on June 27, 2001, indefinitely, to resume his application for adjustment of status under section 245 of the Act.

The director determined that the applicant was ineligible for adjustment of status due to his unlawful presence in the United States for over one year. An appeal was subsequently filed.

The regulation at 8 C.F.R. § 245.2(a)(5) states, in pertinent part:

> (ii) *Under section 245 of the Act.* [N]o 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 C.F.R. part 240.

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

ORDER: The appeal is rejected.