U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

L1

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: Philadelphia, PA Date: AUG 21 2001

IN RE: Applicant: [redacted]

Application: Application for Permanent Residence Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. 1255.

IN BEHALF OF APPLICANT: [redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Philadelphia, Pennsylvania. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The applicant is a native and citizen of Mexico who filed this application for adjustment of status to that of a lawful permanent resident under section 245 of the Immigration and Nationality Act (the Act), as the spouse of a United States citizen. The director denied the application due to abandonment in accordance with 8 C.F.R. 103.2(b) after the applicant failed to appear for two scheduled interviews.

The director declined to treat the appeal as a motion to reopen or reconsider, and forwarded the appeal and the related record to the Associate Commissioner for review. 8 C.F.R. 103.3(a)(2).

Regarding the denial of an application for adjustment of status, the regulation at 8 C.F.R. 245.2(a)(5)(ii) states, in pertinent part: "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 C.F.R. part 240."

Furthermore, it is noted that no appeal lies from the denial of an application for abandonment. 8 C.F.R. 103.2(b)(15).

For these reasons, the appeal must be rejected.

ORDER: The appeal is rejected.