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

U.S. Citizenship and Immigration Services

[redacted]

FILE: SRC 03 199 53743 Office: TEXAS SERVICE CENTER Date: FEB 19 2004

IN RE: Petitioner: [redacted]
Applicant:

APPLICATION: Application for Change of Nonimmigrant Status Pursuant to 8 C.F.R. § 248.3(a)

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 petition for a nonimmigrant worker was filed as an application for a change of the applicant's status in the United States to that of an E-2 Treaty Investor, pursuant to 8 C.F.R. § 248.3(a). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petition was denied by the Director, Texas Service Center, who did not advise the applicant whether or not the decision could be appealed to the AAO. Counsel for the petitioner subsequently filed an appeal.

The regulation at 8 C.F.R. § 248.3(g) states:

> *Denial of application.* When the application is denied, the applicant shall be notified of the decision and the reasons for the denial. There is no appeal from the denial of the application under this chapter.

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

The record also contains a motion to reconsider that was simultaneously filed. Upon review, it was found that jurisdiction over the motion rests with the director. 8 C.F.R. 103.5(a)(1)(ii). The matter will be remanded to the director for action on the motion.

ORDER: The appeal is rejected. The matter is remanded to the director for action on the motion to reconsider.