identifying [illegible] to prevent [illegible] warranted invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

M3

[redacted]

FILE: WAC 02 258 51453 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicants: [redacted]

APPLICATION: Application to Change Nonimmigrant Status pursuant to 8 U.S.C. § 248.3

ON BEHALF OF APPLICANTS:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials 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 service center director denied the application to change nonimmigrant status. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The applicants have filed a Form I-539 application for change of nonimmigrant status, as provided under 8 U.S.C. § 248.3. The applicants are the wife and daughter of an alien seeking H-1B classification under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101 (a)(15)(H)(i)(b). The record indicates that the wife and daughter entered the United States with B-1/B-2 classification, subsequently changed to F-2 status, and now seek H-4 classification.

In his decision the director noted that the applicants, as dependents of the principal alien, are subject to his status. Since the nonimmigrant visa petition (Form I-129) filed on behalf of the principal alien was denied, the director explained, the dependent applicants did not qualify for the requested change of status.

The regulation at 8 U.S.C. § 248.3(g) provides that "[t]here is no appeal from the denial of the application under this chapter." Accordingly, the AAO must reject the instant appeal.

It is noted that the decision denying the nonimmigrant visa petition on behalf of the principal alien was appealed to the AAO, which denied the appeal and dismissed the petition. Accordingly, there is no legal basis for the applicants to acquire derivative H-4 status.

ORDER: The appeal is rejected.