



U.S. Department of Justice  
Immigration and Naturalization Service

HB

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



FILE# [REDACTED] Office: Texas Service Center

Date: **NOV 15 2002**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of the Foreign Residence Requirement  
under Section 212(e) of the Immigration and Nationality Act, 8  
U.S.C. § 1182(e)

**PUBLIC COPY**

IN BEHALF OF APPLICANT: Self-represented

**INSTRUCTIONS:**

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was approved by the Acting Director, Texas Service Center, and the decision was certified to the Associate Commissioner for Examinations for review. The director's decision will be affirmed.

The applicant is a native and citizen of India who is subject to the two-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e). Based on a "No-Objection" statement from the applicant's home country, the Director, Waiver Review Division (WRD), U.S. State Department Visa Office, recommended that the applicant be granted a waiver of the two-year foreign residence requirement.

The acting director agreed to grant the waiver following a review of that decision by the Commissioner pursuant to 8 C.F.R. § 103.4.

8 C.F.R. § 103.4(a) provides, in pertinent part, that the indicated offices may certify their decisions to the appropriate appellate authority when a case involves an unusually complex or novel issue of law or fact.

When Congress introduced the two-year foreign residency requirement in 1956, the law provided only for a waiver on public interest grounds. In 1970, Congress provided two additional grounds for waivers: fear of persecution and a no-objection statement from the exchange student's home government. Pub.L. No. 91-225, 84 Stat. 116, 117 (1970).

Since the Service has been handling Department of State recommendations regarding no-objection statements for more than 30 years, the issue of a favorable recommendation by the WRD is no longer an unusually complex or novel issue of law or fact. It is intrinsically routine. Therefore, a review of a WRD recommendation by the Associate Commissioner is unnecessary.

**DECISION:** The acting director's decision to approve the application is affirmed.