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U.S. Citizenship
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FILE:

XPW 91 039 0127

Office: LOS ANGELES

Date:

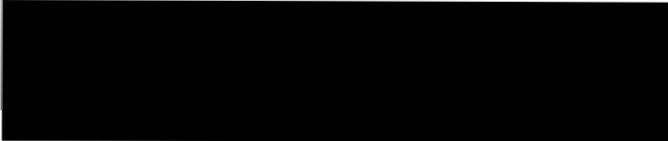
MAR 04 2008

IN RE: Applicant:



APPLICATION: Application for Adjustment from Temporary to Permanent Resident Status under Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied by the District Director, Los Angeles. The record shows that the director incorporated statutory and regulatory language pertaining to the filing of a Form I-700, application for temporary resident status as a special agricultural worker. This was done in error, as the applicant did not file a Form I-700. The sequence of events that preceded the issuance of the current decision indicates that it pertains directly to the applicant's Form I-698. Therefore, the director's references to irrelevant sections of the applicable statute and regulations are hereby withdrawn. Nevertheless, the basis for the director's adverse decision will be considered, as the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application based on the determination that the applicant failed to respond to or comply with the request for additional evidence.

On appeal, the applicant submits a Form I-864, which was previously requested by Citizenship and Immigration Services (CIS).

The regulations at 8 C.F.R. § 245a.3(g)(5) state the following:

Declarations by an applicant that he or she has not been the recipient of public cash assistance and/or has not had a criminal record are subject to a verification of facts by [CIS, formerly] the Service. The applicant must agree to fully cooperate in the verification process. Failure to assist [CIS] in verifying information necessary for the adjudication of the application may result in a denial of the application.

In the present matter, the record shows that the applicant was interviewed by a CIS officer on August 3, 2006. The interview resulted in the issuance of Form I-72, request for additional documentation. Specifically, the applicant was instructed to submit proof of income in the form of either tax records or W-2 wage and tax statements for years 2003-2005 or in the form of an affidavit of support, Form I-864. The applicant was allowed 30 days in which to respond to this request. The record shows that a response was not received.

Accordingly, in a decision dated April 12, 2007, the director denied the application based on the applicant's failure to respond to comply with the request for documentation.

The record shows that the applicant was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the application was re-adjudicated. The applicant failed to submit the requested evidence and now submits it on appeal. However, the AAO will not consider this evidence for any purpose. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

Based on the applicant's failure to assist CIS by timely providing the requested documents, the AAO concludes that the applicant has failed to comply with 8 C.F.R. § 245a.3(g)(5). Therefore, the applicant has failed to establish that she is eligible to adjust her status from temporary to permanent resident.

ORDER: The appeal is dismissed.