

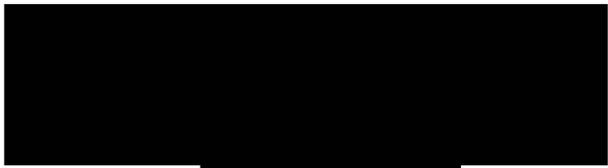
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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CHICAGO Date: **MAR 31 2008**
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IN RE: Applicant: [REDACTED]

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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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: This matter is an application for adjustment from temporary to permanent resident status denied by the Field Office Director, Chicago, Illinois. The matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

Noting that the record was deficient, the director issued a notice dated July 9, 2007, requesting additional evidence in support of the petition. After the applicant failed to submit the requested evidence, the director cited the regulatory provisions for abandonment found in 8 C.F.R. § 103.2(b)(13), and subsequently denied the application, implying that the applicant's failure to respond to the previously issued request suggested that the application had been abandoned.

While the director erroneously informed the applicant of his appeal rights, the regulation at 8 C.F.R. § 103.2(b)(15) states that no appeal would lie from a denial based on abandonment. Regardless, the petitioner submitted an appeal, which was received on October 18, 2007. As there is no appeal from the director's denial, this appeal must be rejected.

Additionally, while not previously discussed in the director's decision, an applicant for adjustment from temporary to permanent resident status under section 245A of the Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. *See* 8 C.F.R. § 245a.3(b). A review of the documentation in the present matter suggests that the only evidence submitted by the applicant to establish his continuous, unlawful residence from January 1, 1982 through May 4, 1988 includes a photocopy of the applicant's check cashing card dated March 9, 1983; a California identification card with the year 1984 on the front, but in general containing no date of issue; and a letter dated January 11, 1991 from [REDACTED] who claimed that the applicant had been a customer of La Mexicana Food Mart since 1981. With regard to the last document, Mr [REDACTED] did not indicate how he came to know the information he provided in his letter, nor did he provide any information as to the frequency of his encounters with the applicant. As such, this document can be afforded minimal weight as evidence of the applicant's continuous residence during the statutorily relevant time period. In summary, the applicant failed to provide sufficient documentation to support his claim. Accordingly, even if the applicant's appeal were to have been considered, the record strongly suggests that the applicant has failed to establish eligibility to adjust his status from temporary to permanent resident.

Regardless, as discussed above, the applicant's Form I-698 was denied based on abandonment. As such, the appeal is hereby rejected.

ORDER: The appeal is rejected.