

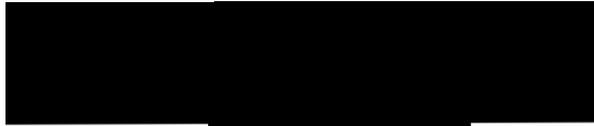


U.S. Citizenship
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FILE:

XAH-87-013-7035

Office: NEBRASKA SERVICE CENTER

Date: NOV 17 2008

IN RE:

Applicant:



APPLICATION:

Application for Temporary 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 on your appeal. If your appeal was dismissed or rejected, your file has been sent to the National Benefits Center. You no longer have a case pending before this office. If your appeal was sustained or the matter was remanded for further action, your file has been returned to the office that originally decided your case, and you will be contacted. You are not entitled to file a motion to reopen or reconsider your case.

John Grissom
Acting Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Western Regional Processing Facility. An appeal of that decision was dismissed by the Legalization Appeals Unit. The decision is now before the Administrative Appeals Office (AAO) on a motion to reopen. The motion to reopen will be rejected.

On August 13, 1987, the applicant filed a Form I-687, Application for Status as a Temporary Resident. The application was denied by the director, Western Regional Processing Facility, on July 29, 1988. An appeal of that decision was dismissed by the Legalization Appeals Unit on July 7, 1989. On March 3, 2004, the applicant filed a motion to reopen his application pursuant to the terms of *Proyecto San Pablo v. INS*, No. Civ 89-456-TUC-WDB (D. Ariz.). On May 8, 2006, the director, Nebraska Service Center, approved the applicant's motion to reopen. The director reviewed the application and determined that the applicant failed to overcome the grounds for the initial denial. The director denied the application and certified his decision to the AAO. On October 23, 2006, the AAO issued a decision to affirm the director's denial.

On March 25, 2008, the applicant filed a notice to appeal the denial of his application for temporary resident status. However, there is no further appeal from the AAO's decision to affirm the denial of his application. *See* Section 245A(f) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(f). Therefore, the applicant's appeal will be treated as a motion to reopen. Although motions to reopen a proceeding or reconsider a decision shall not be considered under Section 245A of the Act, the AAO may *sua sponte* reopen and reconsider any adverse decision. The basis of the applicant's motion is unknown as the applicant's statement, which refers to *Proyecto San Pablo v. INS*, is largely unintelligible.

The record shows that on March 6, 2003, the director sent a letter to the applicant and his counsel to notify them of the court's order in *Proyecto San Pablo v. INS*. Pursuant to the court order, the applicant was given the opportunity to file a motion to reopen his application for temporary resident status and to file a Form I-690, Application for Waiver of Grounds of Excludability. The applicant was also given the opportunity to obtain a copy of his prior deportation or exclusion records under the Freedom of Information Act (FOIA).

The applicant filed a FOIA request on March 25, 2003. This request was fulfilled on June 9, 2003. On March 3, 2004, the applicant filed a waiver application and a motion to reopen his application for temporary resident status. On May 8, 2006, the director granted the applicant's motion to reopen his application. The director reviewed the application for temporary resident status and determined that the applicant failed to overcome the grounds for the initial denial. The director denied the both the application for temporary resident status and the waiver application, and certified his decisions to the AAO. On October 23, 2006, the AAO affirmed the director's denials.

A review of the record does not reveal any errors of fact, law or procedure that would warrant a reconsideration of the AAO's decision. Furthermore, the applicant has not articulated the basis for his motion, and whether there are any legal, factual or procedural errors that should be considered. Therefore, the motion to reopen must be rejected.

ORDER: The motion is rejected.