

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

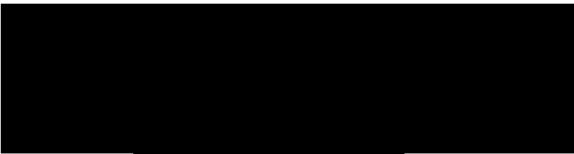
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L,



FILE:

SRC 95 052 50372

Office: TEXAS SERVICE CENTER

Date: MAR 26 2007

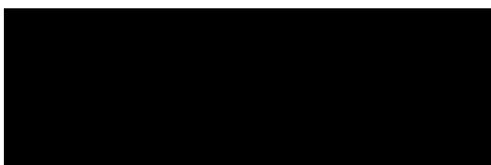
IN RE:

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. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied, reopened, and denied again by the Director, Texas Service Center, and is the matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

United States Citizenship and Immigration Services (USCIS) computer records reveal that the applicant filed a Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, with the Texas Service Center on December 15, 1994. USCIS computer records further indicate that the application was denied on February 16, 1995 and that the applicant filed an appeal from the denial decision on March 9, 1995.¹

On July 22, 2005, the director wrote to the applicant requesting that he submit a duplicate appeal form as the Texas Service Center was not able to locate the appeal form.

On October 5, 2005, the applicant submitted a reconstructed appeal form. On appeal, the applicant stated that he had applied for asylum in the United States under the American Baptist Church v. Thornburgh Settlement Agreement on December 20, 1991, and "was granted this status on February 1992." The applicant further stated that he had been "on ABC status for 10 years" and requested that he be given the opportunity to become a permanent resident. The applicant enclosed with the reconstructed appeal form a photocopy of the appeal form initially filed with the Texas Service Center on March 9, 1995. On this appeal form, the applicant requested that he be granted adjustment of status from temporary to permanent resident.

On August 17, 2005, the service center director reopened the case because the previous denial decision dated February 16, 1995, could not be located. The service center director requested that the applicant submit a photocopy of his employment authorization card or other evidence to establish that he had previously been granted temporary resident status; evidence to establish continuous residence in the United States from the date he was granted temporary resident status to the filing date of his Form I-698; evidence to demonstrate that he had minimal understanding of English and a knowledge and understanding of the history and government of the United States or a "Certificate of Satisfactory Pursuit" from an approved school attesting to his satisfactory pursuit of such knowledge and understanding; a Form I-693 medical examination report; and, two photographs. The request for additional evidence was mailed to the applicant's most current address, but the applicant failed to respond to the request.

On September 16, 2005, the director sent another notice to the applicant denying the Form I-698 because USCIS computer records contained no evidence that the applicant had ever been granted temporary resident status and the applicant was, therefore, ineligible for adjustment of status from temporary to permanent resident. The director informed the applicant that his appeal filed

¹ Neither the Form I-698 nor the denial decision dated February 16, 1995, is contained in the record of proceeding.

on March 9, 1995 was still pending and granted him 30 days to submit additional evidence to supplement his reconstructed appeal. The director further informed the applicant that the case would be forwarded to the AAO for adjudication of the appeal after 30 days or upon receipt of additional evidence to supplement the applicant's appeal. The notice was mailed to the applicant's most current address, and there is no indication that the notice was returned to the Texas Service Center as undeliverable mail. To date, the applicant has not submitted any additional evidence to supplement his appeal. Therefore, the record will be considered complete.

A search of USCIS computer records reveals that the applicant has had a pending application for asylum in the United States under the American Baptist Church v. Thornburgh Settlement Agreement since January 2, 1992. USCIS computer records further reveal that the applicant has previously been issued employment authorization cards in 1992, and from 1996 through 2004, based on a pending asylum application.

There is no indication anywhere in USCIS computer records that the applicant ever applied for, or was granted, temporary resident status. Since the applicant was never granted temporary resident status, he is ineligible for adjustment of status from temporary to permanent resident status under sections 245a of the Immigration and Nationality Act, 8 U.S.C. § 1255a. *See* 8 C.F.R. § 245a.3(b). Therefore, the appeal must be dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.