



**U.S. Citizenship
and Immigration
Services**

LJ



FILE: [REDACTED]
XPW-91-039-1693

Office: PHOENIX

Date:

DEC 07 2009

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application to adjust to permanent resident status pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a was denied by the Director, Phoenix, Arizona and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because the applicant was found to have abandoned the application. Specifically, the applicant failed to appear for at least two scheduled interviews. Specifically, the applicant was scheduled to appear at United States Citizenship and Immigration Services (USCIS) offices on May 10, 1993 and May 19, 2009 and the applicant failed to appear for either interview. The applicant has not offered any explanation regarding his failure to appear. Furthermore, on February 14, 2002, the applicant was scheduled to appear at the Application Support Center for biometrics processing. He also failed to appear at this scheduled appointment.

As stated in 8 C.F.R. § 103.2(b)(15), a denial due to abandonment may not be appealed. Since the denial in this case was based on the abandonment of the application, it may not be appealed. Therefore, the appeal will be rejected.

It is noted that, pursuant to 8 C.F.R. § 210.2(g), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. See 8 C.F.R. § 210.2(h).

Beyond the decision of the director, the AAO notes that the record of proceedings contains a Federal Bureau of Investigation fingerprint record which indicates that the applicant has been arrested for multiple traffic violations and one felony. Specifically, on December 31, 1981, the applicant was arrested and charged with *Aggravated Assault*, a felony, by the Phoenix Police Department (Booking #1010669). The applicant has not submitted the final court dispositions for this arrest, however, the AAO notes that if convicted of a felony, the applicant would not be eligible for adjustment to permanent resident status pursuant to 8 C.F.R. § 245a.18(a)(1).

ORDER: The appeal is rejected.