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

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FILE: [REDACTED]
XTW-87-081-1004

Office: NEBRASKA SERVICE CENTER

Date: **MAR 16 2009**

IN RE: Applicant: [REDACTED]

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:

[REDACTED]

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.

[Handwritten signature]

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The record reflects that on September 1, 1987, the applicant filed a Form I-687, Application for Status as a Temporary Resident. The application was denied by the director, Northern Regional Processing Facility, on April 19, 1988. An appeal of that decision was dismissed by the LAU on April 30, 1990. On January 16, 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 December 15, 2004, the Acting 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 January 13, 2006, the AAO issued a decision to affirm the director's denial.

On April 13, 2006, the applicant filed a motion to reopen his application for temporary resident status. The district court's amended order in *Proyecto San Pablo v. Department of Homeland Security*, No. Civ 89-456-TUC-RCC (D. Ariz.) June 4, 2007, provides that the Department of Homeland Security shall, upon the request of the applicant, reopen the applicant's temporary resident status application and treat such application as pending.¹ Therefore, the applicant's motion to reopen will be deemed properly filed and approved.

The AAO notes that USCIS will withhold the re-adjudication of the temporary resident status applications of class members who properly submit motions to reopen pursuant to the district court's June 4, 2007 amended order and who either submit or have submitted accompanying waiver applications that are the subject of *Proyecto San Pablo v. Department of Homeland Security* until the resolution of the appeal pending before the Ninth Circuit Court of Appeals.

Based upon the foregoing, the applicant's motion to reopen will be deemed properly filed and approved. **His legalization application will be reopened pursuant to this motion.** The re-adjudication of the application will be withheld until resolution of the appeal pending before the Ninth Circuit Court of Appeals.

ORDER: The applicant's motion will be approved.

¹ Class members who filed motions to reopen prior to the district court's June 4, 2007 amended order that are still pending do not have to resubmit a new motion to reopen.