



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

(b)(6)

DATE: **OCT 03 2013** Office: NATIONAL BENEFITS CENTER FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

PETITION: Application to Register Permanent Residence or Adjust Status Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

A handwritten signature in black ink, appearing to read "Ron M. Rosenberg".

Ron M. Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, National Benefits Center, denied the Application to Register Permanent Residence or Adjust Status (Form I-485). The Field Office Director, Sacramento, California certified the decision to the Administrative Appeals Office (AAO) for review, without further comment. The director's decision will be affirmed. The application remains denied.

The record reflects that the applicant is a native and citizen of Iran, who filed an Application to Register Permanent Residence or Adjust Status (Form I-485) based on a Form I-130, Petition for Alien Relative, filed on his behalf by his daughter. On July 15, 2011, the director denied the Form I-485 application.¹ The applicant has submitted a Notice of Appeal or Motion (Form I-290B), indicating at Part 2B of the Form I-290B that he was filing an appeal and that his brief and/or additional evidence will be submitted to the AAO within 30 days.² At part 2 of the Form I-290B, the applicant provided receipt number [REDACTED] which is the receipt number for the Form I-485, filed by the applicant on May 23, 2011. The applicant also provided the date of denial as October 26, 2012. This date does not appear to be the denial date for the Form I-485 filed under receipt number [REDACTED]. As the receipt number of the application that the applicant is appealing is correct, the AAO will accept the Form I-290B as an appeal for the Form I-485 application filed on May 23, 2011. The failure of the applicant to indicate the Application/Petition Form number where indicated is a harmless error.

Based on the applicant's presentation of a fraudulent U.S. citizen birth certificate and his conviction in the United States District Court, Northern District of Texas, for one count of false claim to U.S. citizenship, the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act. No waiver is available for a violation of section 212(a)(6)(C)(ii) and the record fails to demonstrate that the applicant qualifies for the exception described in section 212(a)(6)(C)(ii)(II). As the applicant's inadmissibility under section 212(a)(6)(C)(ii)(I) of the Act statutorily bars his admission to the United States, he is ineligible for adjustment of status in the United States under section 245 of the Act. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he is eligible for the requested benefit. Here, the applicant has not met that burden.

ORDER: The director's decision is affirmed. The application remains denied.

¹ A copy of Notice of Decision in the record bears a decision date of March 28, 2010. However, United States Citizenship and Immigration Services (USCIS) records indicate that a denial notice was sent to the applicant on July 15, 2011, and the Form I-485 contains a denial stamp date of July 12, 2011. The AAO will therefore accept July 15, 2011 as the correct denial date of the Form I-485 application.

² To date no information has been received from the applicant. The record does not contain a brief and/or additional evidence as indicated by the applicant. The AAO will deem the record as complete and will adjudicate the appeal based on the record.