

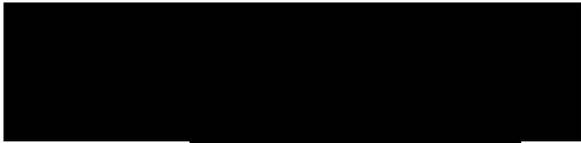
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U.S. Citizenship
and Immigration
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FILE: [REDACTED]
XPH-88-127-01026

Office: CALIFORNIA SERVICE CENTER

Date: DEC 11 2008

IN RE: Applicant:



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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to Section 245A of the Immigration and Nationality Act (Act) during the original filing period was denied by the director of the California Service Center on August 27, 1993. The applicant submitted a timely appeal to that decision. On January 21, 1999 the director *sua sponte* reopened the case and found that the applicant overcame the reasons for the denial of his application. Therefore, the director granted the application. Because the director reopened her decision *sua sponte*, pursuant to the regulation at 8 C.F.R. § 103.5, the California Service Center and not the Administrative Appeals Office (AAO) has jurisdiction over this decision. Therefore, the appeal will be rejected because of the AAO's lack of jurisdiction over the matter.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act) in 1988, during the original filing period. The director of the California Service Center issued a Notice of Intent to Deny (NOID) and ultimately denied the application after finding that applicant failed to submit sufficient evidence to prove that he had been employed using the alias [REDACTED] during the requisite period.

The applicant's appeal, submitted in September of 1993, was submitted with evidence that the applicant had previously used the alias [REDACTED]

Because the applicant submitted additional evidence in support of his application on appeal, the director of the California Service Center opened the case *sua sponte* pursuant to the regulation at 8 C.F.R. § 103.5(b). In doing so, she found that the applicant overcame the reasons for the denial of his application. Therefore, she approved the application. However, that status was ultimately terminated after the applicant's fingerprint results revealed that he had been arrested on numerous occasions and he failed to provide the director with evidence that he had not been convicted of either a felony or three or more misdemeanor offenses.

Because the director reopened her decision *sua sponte* pursuant to 8 C.F.R. § 103.5 and has already considered the applicant's evidence and found that he overcame her reasons for the denial of the application, the director of the California Service Center and not the AAO has jurisdiction over the matter. Therefore, the AAO must reject the appeal and return it to the office that has jurisdiction over the matter.

ORDER: The appeal is rejected because of the AAO's lack of jurisdiction over the matter.