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U.S. Department of Homeland Security  
20 Massachusetts Ave., NW, RM. 3000  
Washington, D.C. 20529-2090



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]  
MSC-06-061-11566

Office: NEW YORK

Date: DEC 29 2008

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for Waiver of Inadmissibility 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, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application for waiver of inadmissibility was denied by the District Director, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

On November 14, 2005, the applicant submitted a Form I-690, Application for Waiver of Grounds of Excludability (now referred to as Inadmissibility) concurrently with a Form I-687, Application for Status as a Temporary Resident Under Section 245A of the Act. The applicant did not clearly state which ground of inadmissibility he was applying to overcome on that application. The director denied the application, noting that the applicant's Form I-687 had been denied and that the applicant had not clearly stated why he was excludable.

On appeal, the applicant states that he is appealing the decisions on both his Form I-690 and his Form I-687 applications. He asserts that United States Citizenship and Immigration Services (USCIS) should grant both applications.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, is admissible to the United States under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.2(d)(5).

On January 24, 2007, the director denied the applicant's Form I-687. In denying the application, the director found that the applicant failed to satisfy his burden of proof, specifically noting that at the time of the applicant's interview with a USCIS immigration officer regarding the application, the applicant could not recall any of the addresses that he resided at during the requisite period. The director concluded that the applicant failed to establish eligibility for temporary resident status. The applicant appealed the denial of his application to the AAO. The AAO dismissed the appeal, finding that the applicant failed to overcome the basis for the director's denial.

The applicant filed a Form I-690 waiver application in an attempt to overcome a ground of inadmissibility. However, the director did not determine that the applicant was ineligible to adjust to temporary resident status based on a ground of inadmissibility. Instead, the director determined the applicant was ineligible because he failed to establish that he resided continuously in the United States for the requisite period. The AAO dismissed the appeal, concurring with the director's decision that the applicant did not satisfy his burden of proving that he resided continuously in the United States for the duration of the requisite period. There is no waiver available for this ground of ineligibility. Hence, even if the director granted the applicant's waiver application, the applicant would remain ineligible for temporary resident status. Therefore, pursuit of the instant matter is moot and the appeal is dismissed.

**ORDER:** The appeal is dismissed.