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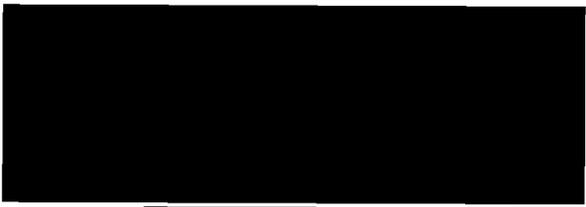
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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

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FILE:



WAC-96-228-50606

Office: SAN DIEGO

Date:

APR 01 2010

IN RE:

Applicant:



APPLICATION:

Application for Adjustment from Temporary to Permanent Resident Status 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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary resident status to permanent resident status was denied by the Director, San Diego, California and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-698 Application to Adjust from Temporary to Permanent Resident on August 20, 1996. The director subsequently hand delivered a Form I-72 to the applicant on October 12, 2006 requesting additional documentation. The applicant was also issued a Notice dated February 9, 2007 for an interview on March 15, 2007. This notice was sent to the applicant's proper address of record, [REDACTED] San Ysidro, California. The applicant failed to appear for the interview or request that the interview be rescheduled.

On appeal, the applicant asserts that he did not receive the appointment notice and that he did not abandon his case. The applicant also requests a copy of the record of proceedings. This request was fulfilled on June 5, 2009.¹

If an applicant fails to appear for an interview, the application shall be considered abandoned and denied unless by the appointment time USCIS has received a change of address or rescheduling request that the agency concludes warrants excusing the failure to appear. 8 C.F.R. 103.2(b)(13)(ii). A denial due to abandonment may not be appealed to the AAO. 8 C.F.R. § 103.2(b)(15). The AAO further notes that the appointment notice was sent to the proper address of record. However, the Notice of Denial, dated March 20, 2007 was sent to an improper address. This is of no consequence, however, because the AAO has accepted the appeal as timely filed.

In this case, the applicant was scheduled to be interviewed but failed to appear. He did not request that his interview be rescheduled. Therefore, the director's decision to deny the application as abandoned was correct. Since the application was denied as abandoned, it may not be appealed to the AAO. 8 C.F.R. § 103.2(b)(15). The appeal, therefore, must be rejected.

ORDER: The appeal is rejected.

¹ NRC2008030052