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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:

Office: TEXAS SERVICE CENTER

Date: **AUG 23 2010**

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.

IN BEHALF OF APPLICANT:

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 temporary resident status pursuant to section 245A of the Immigration and Nationality Act (Act) was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed based upon its withdrawal.

The director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. The director concluded that the applicant was not eligible to adjust to temporary resident status pursuant section 245A of the Act, and therefore, denied the application.

On appeal, counsel asserted that the applicant would be submitting evidence to support his claim of residence in the United States for the required period. Counsel also submitted a Freedom of Information Act request on the applicant's behalf for a copy of the record.

The record shows that United States Citizenship and Immigration Services or USCIS (formerly the Immigration and Naturalization Service or the Service) attempted to comply with the Freedom of Information Act request, but such request was administratively closed with Control Number [REDACTED] as failure to comply on December 29, 2008.

Subsequent to the filing of the appeal, the applicant submitted a letter to the AAO on July 26, 2010 requesting that his Form I-687 application and corresponding appeal be withdrawn. Although this request to withdraw the appeal shall be honored, the following facts must be noted.

An applicant for temporary residence must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(2) and 8 C.F.R. § 245a.2(b).

An alien applying for adjustment to temporary resident status must establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act and 8 C.F.R. § 245a.2(b)(1).

The record shows that the applicant submitted a Form I-687 application to the Service on September 26, 2001.

In support of his claim of continuous unlawful residence in the United States since prior to January 1, 1982, the applicant submitted documentation including two photocopied envelopes, one of which contains an illegible postmark and the other a postmark of June 2, 1987. The photocopied envelope postmarked June 2, 1987 bears Indian postage stamps and was represented as having been mailed from India to the applicant at the address that he claimed as his residence in this country as of the date of this postmark. A review of the *2010 Scott Standard Postage Stamp Catalogue* Volume 3 (Scott Publishing Company 2009) reveals the following:

- The envelope bears three of the same stamp each with a value of three rupees. This stamp contains a stylized portrait of Dr. [REDACTED]. The stamp is listed at page 923 of Volume 3 of the *2010 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as April 14, 2001.

The fact that a photocopied envelope postmarked June 2, 1987 bears a stamp that was not issued until well after the date of this postmark establishes that the applicant utilized this document in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. By engaging in such action, the applicant negated his own credibility as well as the credibility of his claim of continuous residence in this country for the period from prior to January 1, 1982.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

By filing the instant application and submitting a falsified document, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he submitted a falsified document, we affirm our finding of fraud. Consequently, the applicant is ineligible to adjust to temporary permanent residence under section 245A of the Act on this basis.

**ORDER:** The appeal is dismissed based upon its withdrawal. This decision constitutes a final notice of eligibility.