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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



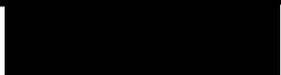
U.S. Citizenship
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FILE:



Office: MESQUITE

Date:

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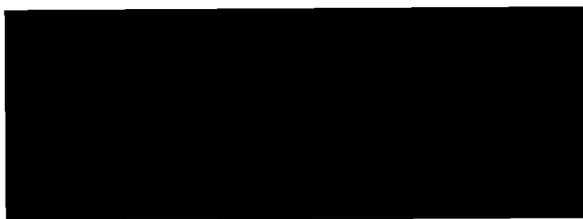
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IN RE: Applicant:



APPLICATION: Application to Adjust 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Mesquite, Texas, is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further action and consideration.

The director correctly terminated the applicant's temporary resident status because the applicant's Form I-698, Application to Adjust Status from Temporary to Permanent Resident had been denied. The director denied the Form I-698 application because the applicant failed to establish that he satisfied the "basic citizenship skills" required under section 245A(b)(1)(D) of the Immigration and Nationality Act. It is noted that there is no appeal of the denial of the Form I-698 application. However, the director incorrectly denied the Form I-698 application.

An applicant may demonstrate that the section 312 requirements have been met by speaking and understanding English during the course of the permanent residence interview, **or** by passing a standardized section 312 test given in the English language by the Legalization Assistance Board with the Educational Testing Service or the California State Department of Education with the Comprehensive Adult Student Assessment System. *See* 8 C.F.R. § 245a.3(b)(4)(iii).

The record reflects that the applicant was interviewed twice in connection with his Form I-698 application, on June 22, 2006, and again on November 2, 2006. On both occasions, the applicant failed to demonstrate a minimal knowledge of United States history and government.

The regulation at 8 C.F.R. § 245a.3(b)(4)(iii)(B) states, in pertinent part, that an applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial interview shall be afforded a second opportunity after six (6) months (or earlier at the request of the applicant) to pass the required tests.

The director, however, did not wait the required six months before scheduling the applicant for a second interview, and the record does not contain any evidence that the applicant requested an earlier interview.

Accordingly, the decision of the director is withdrawn. The case will be remanded for the purpose of scheduling the applicant for another interview in order for the applicant to demonstrate his compliance with the basic citizenship skills requirement. The director should reopen the I-698 application and schedule the applicant for a 2nd test. If the new decision is adverse, it may be certified to this office.

ORDER: This matter is remanded for further action and consideration pursuant to the above.