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U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-A-A-

DATE: DEC. 22, 2015

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM I-687, APPLICATION FOR STATUS AS A TEMPORARY RESIDENT UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT

The Applicant, a native and citizen of Pakistan, seeks status as a temporary resident. *See* Immigration and Nationality Act (the Act) § 245A, 8 U.S.C. § 1255(a). The Director, National Service Center, denied the application. We dismissed a subsequent appeal. The matter is now before us on a motion to reopen. The motion will be rejected.

On October 6, 2010, the Director denied the application, deeming it abandoned as the Applicant had failed to appear for a scheduled interview. The Director notified the Applicant that he was entitled to file an appeal with the AAO. On November 22, 2010, the Applicant appealed the Director's decision.

On December 19, 2011, upon *de novo* review, we found the Director's denial, based on abandonment of the Applicant's Form I-687 (receipt number [redacted]), to be in error. However, we issued a notice of intent to dismiss (NOID), giving the Applicant 21 days to respond to our request for evidence establishing proof of his continuous residence during the required period. We stated that although the Applicant submitted letters in support of his claim of eligibility, the declarants did not provide concrete information, specific to the Applicant and generated by the asserted associations with him, which would reflect and corroborate the extent of those associations and demonstrate that they are a sufficient basis for reliable knowledge of the Applicant's residence during the time addressed in the declarations. We also stated that in conjunction with a Form I-130, Petition for Alien Relative, filed on the Applicant's behalf, the Applicant signed a Form G-325A, Biographic Information, indicating that he had resided in Pakistan from February 1956 until 1997. The Applicant did not respond to the NOID and on January 31, 2012, we dismissed the appeal because the Applicant did not submit sufficient credible evidence of his continuous residence during the relevant time period.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) requires that a motion to reopen or reconsider a proceeding must be filed within 30 days of the underlying decision, and that a motion to reopen must be filed within 30 days except that failure to file a motion during this period may be excused when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant.

We rendered our decision on January 31, 2012. This motion, erroneously dated May 26, 3015, was received on March 2, 2015, over three years after the date of our decision. The Applicant has not demonstrated that the delay was reasonable and beyond his control. The motion is untimely.

While we must reject the Applicant's motion to reopen, we will consider whether the matter warrants reopening *sua sponte*. We may reopen and reconsider *sua sponte* any adverse decision where it appears that manifest injustice would occur if the adverse decision were permitted to stand. *See Matter of O-,* 19 I&N Dec. 871 (Comm. 1989); 8 C.F.R. § 103.5(b). The record reveals no error in the adjudication of either the application for temporary residence or the appeal that would warrant reopening. On motion, the Applicant states only that he had requested a new interview date due to illness. Again, we recognize that the Director's decision based on abandonment was in error, but, as explained above, the Applicant has not demonstrated he is otherwise eligible for the benefit sought.

Pursuant to 8 C.F.R. § 103.5(b), motions to reopen legalization proceedings under sections 245A of the Act shall not be considered. Therefore, the matter will not be reopened. Accordingly, the motion must be rejected

ORDER: The motion is rejected.

Cite as *Matter of M-A-A-*, ID# 14080 (AAO Dec. 22, 2015)