



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF I-S-

DATE: NOV. 24, 2015

MOTION OF 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 India, seeks status as a temporary resident. *See* Immigration and Nationality Act (the Act) § 245A, 8 U.S.C. § 1255(a). The Director, New York Field Office, denied the application. The Applicant filed an appeal with the Administrative Appeals Office (AAO), which was dismissed. The matter is now before us on motion. The motion will be denied.

On September 1, 2005, the Applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Act. On January 5, 2007, the Director of the New York Field Office erroneously denied the Form I-687, finding that the Applicant abandoned the application, pursuant to 8 C.F.R. § 103.2(b)(13), by failing to appear for a scheduled interview on September 7, 2006. On October 19, 2010, the Applicant submitted a Form I-694, Notice of Appeal of Decision under Section 210 or 245A. On August 30, 2011, we issued a Notice of Intent to Deny (NOID) and provided the Applicant 21 days in which to respond or to provide additional evidence in support of his claim. Although the Applicant did not respond to the NOID, we withdrew the Director's decision and considered the Applicant's claim on the merits. On October 27, 2011, we dismissed the Applicant's appeal, stating that the Applicant did not establish by a preponderance of the evidence that he continuously resided in an unlawful status in the United States from before January 1, 1982, through the requisite period as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989).

On motion, the Applicant states that the Director's decision was incorrect because he did not abandon his application; he never received the NOID sent to him in 2011; and he was sick on his interview date. The Applicant does not address the reasons for the denial of his appeal nor does he submit additional documentation or evidence on motion. In addition, the Applicant's address on his Form I-694 is the same address that the NOID was sent to in 2011. The Applicant does not explain why he would not have received the NOID in 2011.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service

Matter of I-S-

policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Motions to reopen a proceeding or reconsider a decision under sections 210 and 245A of the Act shall not be considered. 8 C.F.R. § 103.5(b). However, the same regulation provides that we may *sua sponte* reopen and reconsider any decision rendered in a proceeding before us under these sections of the Act. 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. *Matter of O-*, 19 I&N Dec. 871 (Comm. 1989).

While we may *sua sponte* reopen on our own motion a matter previously adjudicated, the record reveals no error in the dismissal of either the application for temporary residence or that manifest injustice would occur, such that the matter that would warrant reopening.

The Applicant's motion does not meet the requirements of a motion to reopen or a motion to reconsider. The Applicant provides no new evidence concerning his eligibility for the benefit sought. In addition, the Applicant does not support his reasons for reconsideration with documentary evidence or case law. Finally, the motion does not establish that our decision was incorrect. Accordingly, the motion is denied.

ORDER: The motion is denied.

Cite as *Matter of I-S-*, ID# 14461 (AAO Nov. 24, 2015)