



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUN 15 2015**

FILE: [REDACTED]
APPLICATION RECEIPT: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Adjustment from Temporary to Permanent Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:
[REDACTED]

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If your appeal was dismissed or rejected, 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.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Denver, Colorado, denied the application for adjustment from temporary to permanent resident status. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On June 3, 2014, the Field Office Director denied the application for adjustment from temporary resident to permanent resident status, due to the applicant's failure to establish his eligibility for temporary resident status. The field office director terminated the applicant's temporary resident status, finding that the applicant had not established that he had continually resided in the United States in an unlawful status since [REDACTED] 1982.

On appeal, citing 8 C.F.R. § 245a.2(d)(3)(vi)(L), the applicant, through counsel, asserts that the submission of affidavits are allowed. The applicant states that he has met the preponderance of evidence standard; that the Field Office Director used an improper evidentiary standard to evaluate the applicant's supporting documents; that affidavits may be viewed as credible even if they are not accompanied by corroborating evidence; and that there was no reason to maintain documents as the applicant's uncle was informed that the applicant's 1987 absence prevented him from applying for legalization under section 245A of the Act.

An alien whose temporary resident status has been terminated under 8 C.F.R. § 245a.2(u) is ineligible for adjustment from temporary to permanent resident status. 8 C.F.R. § 245a.3(c)(5).

While affidavits in certain cases can effectively meet the preponderance of evidence standard, the affidavits submitted by the applicant are lacking in probative value and evidentiary weight. To be considered probative, an affiant's affidavit must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. The affidavit must contain sufficient detail, generated by the asserted contact with the applicant, to establish that a relationship does in fact exist, how the relationship was established and sustained, and that the affiant does, by virtue of that relationship, have knowledge of the facts asserted. The affidavits from the affiants do not provide sufficient detail to establish that they had an ongoing relationship with the applicant that would permit them to know of the applicant's whereabouts and activities throughout the requisite period.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Section 212(a)(6)(C) of the Act¹ provides in pertinent part:

Misrepresentation. – (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

¹ The ground of excludability at section 212(a)(19) of the Act has been replaced by the ground of inadmissibility listed at section 212(a)(6)(C)(i) of the Act, as amended.

The record reflects that on [REDACTED] 1991, the applicant was arrested by the U.S. Border Patrol at the bus station in [REDACTED] Texas. According to the Form I-213, Record of Deportable Alien, upon inspection, the applicant presented a false temporary resident card. The applicant indicated that he purchased the temporary resident card in Mexico. On [REDACTED] 1991, the applicant was convicted of illegal entry, a violation of 8 U.S.C. § 1325. The applicant was sentenced to 75 days of incarceration. Based on this conviction, the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for willful misrepresentation of a material fact. This ground of inadmissibility may be waived, but given the applicant's failure to establish continuous residence, no purpose would be served by filing a waiver application.

The applicant is not a temporary resident. Therefore, he is ineligible for adjustment from temporary to permanent resident status.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility for adjustment from temporary to permanent resident status.