



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

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

In Re: 20755071

Date: JUNE 23, 2022

Motion on Administrative Appeals Office Decision

Form I-687, Application for Status as a Temporary Resident

The Applicant, a native and citizen of Mexico, seeks status as a temporary resident pursuant to section 245A of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255a.<sup>1</sup> The Immigration Reform and Control Act of 1986 created a legalization program under section 245A of the Act, which allows eligible foreign nationals who entered the United States before January 1, 1982, and who continuously resided and were physically present in the United States during specified time periods, to adjust status to temporary residence, if they are admissible to the United States and have not been convicted of a felony or three or more misdemeanors in the United States.

In 1987, the Applicant filed a Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act) that was approved in 1988, adjusting his status to a temporary resident. After the Applicant's adjustment to temporary resident status, the Director of the California Service Center terminated his status. The Applicant appealed that decision to this office, and we dismissed the appeal in 2006.

The matter is now before us on a motion to reopen. The regulation at 8 C.F.R. § 103.5(b) states in pertinent part "[m]otions to reopen a proceeding or reconsider a decision under part 210 or 245A of this chapter shall not be considered." As there is no provision for a motion to reopen the proceedings or reconsider a decision under section 245A of the Act, we do not have jurisdiction to consider the Applicant's motion and must deny it.

We note, however, that we have considered whether we should reopen and reconsider our appeal decision *sua sponte*. The Applicant has not met his burden of proof to demonstrate eligibility. The new facts and evidence the Applicant presents with this motion do not establish that reopening the matter would result in a different outcome because the record relating to his criminal history is not fully developed. The Applicant submits documentation demonstrating one of his misdemeanor convictions and one felony-level conviction was vacated on a basis removing that conviction from consideration in immigration contexts. However, we reiterate our findings within our 2006 appellate

---

<sup>1</sup> In addition to section 245A of the Act, there are settlement agreements in *Catholic Social Servs., Inc. v. Ridge*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Newman v. USCIS*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements) and the settlement agreement in *Northwest Immigrant Rights Project v. USCIS*, 88-CV-00379 JLR (W.D. Was) September 9, 2008 (NWIRP Settlement Agreement).

decision, that the record does not contain sufficient evidence to establish the Applicant's full record of conviction and he has not provided "court documents necessary for the adjudication of the application." Still absent are documents relating to any remaining arrests and court dispositions for any convictions, at least including a [REDACTED] 1988, arrest relating to vehicle theft and the revocation of his probation in 1989 resulting in a 16-month prison sentence.

In summary, the Applicant's temporary resident status was properly terminated pursuant to section 245A(b)(2) of the Act and 8 C.F.R. § 245a.2(u)(1)(iv), the filing of this motion to reopen was both untimely and precluded under the regulation, and we are not exercising our *sua sponte* authority to reopen the proceedings.

**ORDER:** The motion to reopen is dismissed.