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

LI

FILE:



Office: Texas Service Center

Date: **NOV 02 2005**

IN RE:

Applicant:



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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case 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.

A handwritten signature in black ink that reads "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status (Form I-698) was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had never been granted temporary resident status, and was therefore ineligible for adjustment to permanent resident status.

On appeal the applicant discusses employment authorization, and explains that he was told to file another application.

An alien who was not previously granted temporary resident status under section 245A(a) of the Act is ineligible for adjustment to permanent resident status. 8 CFR § 245a.3(c)(4).

The applicant applied for temporary residence as a special agricultural worker under section 210 of the Immigration and Nationality Act (INA). That application was denied, and his appeal was dismissed. He later improperly filed this application for adjustment from temporary to permanent residence under section 245A of the INA, a different section of law relating to amnesty. He was not eligible to file this application because he had never been granted temporary residence under section 245A.

Because the applicant has not been granted lawful temporary resident status under section 245A, this appeal must be dismissed.

ORDER: The appeal is dismissed. The director shall forward this file to the Director, National Benefits Center, for adjudication of the other application for adjustment, Form I-485.