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U.S. Department of Homeland Security  
20 Mass Ave. N.W., Room A3042  
Washington, DC 20529



U.S. Citizenship  
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Services

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FILE:



Office: Texas Service Center

Date:

SEP 27 2005

IN RE:

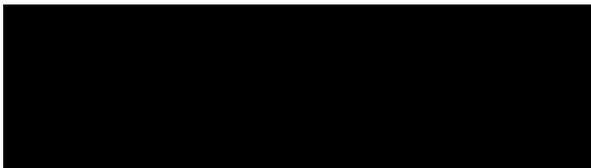
Applicant:



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:



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, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for adjustment from temporary to permanent resident status 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 incorrectly states that he was granted temporary residence. He indicates that he would like to have his case reopened.

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 on July 9, 1990. On July 2, 2003 the applicant improperly filed this Form I-698 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. In addition, motions to reopen a proceeding or reconsider a decision under section 210 shall not be considered. 8 C.F.R. § 103.5(b).

It is noted that the director incorrectly stated at one point in the decision that the applicant applied for temporary residence under section 245A, and that the application was denied on July 30, 1992. That was simply the date that the denial was sent out for the second time. The applicant applied under section 210 as stated above.

The director also stated that the applicant does "not have an approved Form I-698, Application for Status as a Temporary Resident, anywhere in the system," when she meant to say that he does not have an approved Form I-687 temporary residence application.

In spite of these errors, the appeal must be dismissed as stated above.

**ORDER:** The appeal is dismissed.