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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

XHU 88 187 8090

Office: TEXAS SERVICE CENTER

Date:

SEP 28 2006

IN RE:

Applicant:



APPLICATION:

Application for Temporary 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. All documents have been returned to the office that originally decided 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Texas Service Center, is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director terminated the applicant's temporary resident status because the applicant failed to file the Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, within the 43-month application period.

The regulation at 8 C.F.R. § 103.2(a)(1) provides, in part, that “[e]very application, petition, appeal, motion, request ... shall be executed and filed in accordance with the instructions on the form, such instructions ... being hereby incorporated into the particular section of the regulations in this chapter requiring its submission.” See 8 C.F.R. § 103.2(a)(7)(i). The bottom portion of the Form I-694, Notice of Appeal, requires a signature on the form when the decision is appealed.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. The appeal Form I-694 is signed by the applicant’s nephew rather than the applicant himself. The record does not contain a Form G-28, Notice of Entry of Appearance as Attorney or Representative, authorizing this individual to act on behalf of the applicant, nor is this individual recognized as authorized or accredited representative pursuant to 8 C.F.R. § 292.1(a).¹ The appeal Form I-694 has not been filed by the applicant, or by any entity with legal standing in the proceeding. Therefore, the appeal Form I-694 has not been properly filed and must be rejected.

ORDER: The appeal is rejected.

¹ See <http://www.usdoj.gov/eoir/statspub/raroster.htm> for the list of accredited organizations and representatives.