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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC-07-143-11692

Office: NEW ORLEANS (FORT SMITH)

Date: **AUG 27 2008**

IN RE: Applicant: [Redacted]

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 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied by the Director, Fort Smith Field Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because the applicant appeared for interviews on two occasions, was given the opportunity to demonstrate his understanding of English and his knowledge and understanding of the history and government of the United States, and was unable to do so.

An applicant for temporary resident status may appeal an adverse decision on Form I-694. 8 C.F.R. § 245a.3(i). The regulations provide that every application, petition, appeal, motion, request, or other document submitted on the form prescribed by the Department of Homeland Security regulations shall be executed and filed in accordance with the instructions on the form; and the instructions are incorporated into the particular section of the regulations requiring its submission. 8 C.F.R. § 103.2(a)(1). Form I-694 includes the following instruction:

Any Form I-694 that is not signed or accompanied by the correct fee will be rejected with a notice that the Form I-694 is deficient. [An applicant] may correct the deficiency and resubmit the Form I-694.¹

In this case, the Form I-694 submitted on February 22, 2008 was not signed by the applicant. The form was signed by [REDACTED] who identified herself as the applicant's attorney. According to 8 C.F.R. § 292.4(a), an appearance shall be filed on the appropriate form by the attorney or representative appearing in each case. A notice of appearance entered in proceedings must be signed by the applicant to authorize representation in order for the appearance to be recognized by Citizenship and Immigration Services. The record does not contain a Form G-28 Notice of Entry of Appearance as Attorney or Representative signed by the applicant and [REDACTED]

The AAO sent a notice to [REDACTED] on July 14, 2008 requesting that a copy of Form G-28 Notice of Entry of Appearance as Attorney or Representative, signed by the applicant and [REDACTED] be submitted to the AAO within five business days. More than three weeks have passed since the issuance of the notice, and the AAO has not received a response. As a result, the record will be considered complete.

The record does not contain a Form G-28 establishing [REDACTED] authorization to serve as the applicant's attorney. Therefore, her representation will not be recognized by the AAO. As the appeal has not been signed and filed by the applicant or by any authorized representative, the appeal is deficient and has not been properly filed. The appeal, therefore, must be rejected.

¹ Note, however, that a rejected application or petition will not retain a filing date. 8 C.F.R. § 103.2(a)(7). As Form I-694 must be filed within 30 days of the notice of decision, it would not be possible to timely resubmit the Form I-694 in this case, as more than six months have passed since the decision was issued.



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ORDER: The appeal is rejected.