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U.S. Citizenship  
and Immigration  
Services

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FILE:

XHU-88-157-01148

Office: TEXAS SERVICE CENTER

Date: NOV 24 2008

IN RE:

Applicant:



APPLICATION:

Application for Status as a Temporary Resident pursuant to 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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

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

It is noted by the AAO that the applicant's temporary resident status was terminated on March 31, 2005. The director notified the applicant of his appellate rights in the Termination Notice, however, he indicated the wrong fee. The record reveals that the applicant did timely file his I-694 appeal on April 29, 2005. The applicant sent the wrong fee and the appeal was rejected for failure to timely file. However, because the director erred in quoting the wrong fee in the Termination Notice, the AAO has *sua sponte* reopened the appeal.<sup>1</sup>

The applicant was granted temporary resident status on January 10, 1989 under section 245A of the Immigration and Nationality Act (Act), as amended, 8 U.S.C. § 1255a. The applicant was required to file an application to adjust status from temporary to permanent resident within forty-three (43) months of receiving his temporary resident status. *See* 8 C.F.R. § 245a.3(b)(1). Pursuant to section 245A(b)(2)(C) of the Act, 8 U.S.C. § 1255a(b)(2)(C), a failure to file an application for adjustment to permanent residence within this statutory filing period will result in the termination of the applicant's temporary residence. The applicant filed his application to adjust status from temporary to permanent resident on March 14, 1996, which is outside the statutory filing period.

As stated in 8 C.F.R. § 103.3(a)(3)(iv)(B), any appeal which is filed solely on the basis of a denial for failure to file the application for adjustment of status under section 210 or 245A in a timely manner, will be summarily dismissed.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.

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<sup>1</sup> It is noted that, pursuant to 8 C.F.R. § 210.2(g), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. *See* 8 C.F.R. § 210.2(h).