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U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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FILE: 

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant: 

FEB 24 2005

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. 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, Director
Administrative Appeals Office

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

The director denied the adjustment application because the applicant's temporary resident status had been terminated, and the applicant was therefore not eligible for adjustment to permanent resident status. The director terminated the applicant's temporary resident status because the applicant had not demonstrated that he had resided *unlawfully* in the United States from 1981 to 1988.

On appeal, counsel argues that the applicant's status was unlawful for various reasons. He requests that the termination of status be reopened.

An alien whose temporary resident status has been terminated under 8 C.F.R. § 245a.2(u) is ineligible for adjustment from temporary to permanent resident status. 8 C.F.R. § 245a.3(c)(5).

The record reveals that the applicant's temporary resident status was terminated on June 1, 2002 because the director concluded that the applicant had been in lawful student status until at least as late as the autumn of 1986. The applicant appealed such decision, but his appeal was summarily dismissed as frivolous. That matter will not be reopened.

While the applicant, in an effort to overcome the ground of termination, now maintains that he was in an unlawful status for various technical reasons, such an argument would have had to have been made on appeal of the termination in order to receive consideration.

The applicant is not a temporary resident. Therefore, he is ineligible for adjustment from temporary to permanent resident status.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility for adjustment from temporary to permanent resident status.