

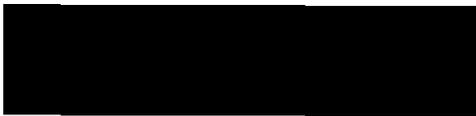
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



L1



Date: **JUL 24 2012** Office: SAN JOSE

File:

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: 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.

for
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status in the legalization program was denied by the director of the San Jose Field Office, 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.

On appeal, the applicant asserts that she tried to get help from United States Citizenship and Immigration Services Customer Service line, but that they misdirected her, and she missed her filing deadline. The applicant states that USCIS told her that her "type of case did not exist," but that they would review her file and get back to her. The applicant said that at an InfoPass appointment, she learned that she had missed the filing deadline.

The applicant asserts that the government "should apply the concept of equitable tolling in this matter."

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 applicant's temporary resident status was terminated on March 21, 2012.

The applicant failed to appeal the director's decision to terminate her temporary resident status; therefore, that decision is final.

The Administrative Appeals Office, like the Board of Immigration Appeals, is without authority to apply the doctrine of equitable estoppel so as to preclude a component part of USCIS from undertaking a lawful course of action that it is empowered to pursue by statute or regulation. *See Matter of Hernandez-Puente*, 20 I&N Dec. 335, 338 (BIA 1991). Estoppel is an equitable form of relief that is available only through the courts. The jurisdiction of the Administrative Appeals Office is limited to that authority specifically granted to it by the Secretary of the United States Department of Homeland Security. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2004). The jurisdiction of the AAO is limited to those matters described at 8 C.F.R. § 103.1(f)(3)(E)(iii) (as in effect on February 28, 2003). Accordingly, the AAO has no authority to address the applicant's equitable estoppel claim.

The applicant is not a temporary resident. Therefore, she 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.