



(b)(6)

Date: Office: TEXAS SERVICE CENTER

APR 11 2013

FILE:

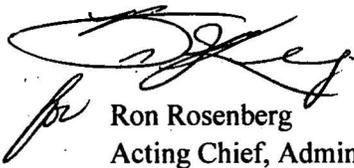
IN RE: Applicant:

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.



Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status in the legalization program was denied by the Director, Texas 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, finding she had late filed her Form I-698 application for adjustment from temporary to permanent resident status.

On appeal, the applicant asserts that she relied upon an attorney's bad advice and filed a Form I-485 rather than a Form I-698. She further asserts that she filed late because she relied on a document preparation assistant who provided her with ineffective assistance.

There is no remedy available for a petitioner who assumes the risk of authorizing an unlicensed attorney or unaccredited representative to undertake representations on its behalf. *See* 8 C.F.R. § 292.1; *see also Hernandez v. Mukasey*, 524 F.3d 1014 (9th Cir. 2008) ("non-attorney immigration consultants simply lack the expertise and legal and professional duties to their clients that are the necessary preconditions for ineffective assistance of counsel claims"). The AAO only considers complaints based upon ineffective assistance against accredited representatives. *Cf. Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988) (requiring an appellant to meet certain criteria when filing an appeal based on ineffective assistance of counsel).

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 failed to appeal the decision to terminate her temporary resident status; however, the director incorrectly advised the applicant that she had no appeal rights. Nonetheless, the applicant cannot overcome the basis for the decision. The applicant was granted temporary resident status on September 1, 2003. She was required to file her application for adjustment on or before April 1, 2007. Instead, she filed the Form I-485 on April 30, 2007 and the Form I-698 on June 20, 2007.

The applicant submitted a statement from a document preparation assistant, who states that she is responsible for the applicant's failure to timely file her Form I-698.

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.