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



U.S. Citizenship
and Immigration
Services

Date: **DEC 06 2013** Office: HOUSTON

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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: [REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Houston Field Office Director terminated the temporary resident status of the applicant, pursuant to section 245A(b)(2)(C) of the Immigration and Nationality Act (Act), finding the applicant to be ineligible for temporary resident status because his application for adjustment from temporary to permanent resident status had been denied.¹

On appeal, the applicant asserts that the director's decision is erroneous and that he previously submitted evidence in response to the director's notice of intent to terminate (NOIT).

The temporary resident status of an alien may be terminated upon the determination that the alien's application for adjustment from temporary to permanent resident status was denied. Section 245A(b)(2)(C) of the Act.

The applicant filed a Form I-698 application for adjustment from temporary to permanent resident status. The director denied the application, finding the applicant had failed to establish he satisfied the English and civics requirements of the Act. He appealed the decision. The AAO dismissed the appeal. Now on appeal of the decision to terminate his temporary resident status, he submits additional evidence to show he satisfied the English and civics requirements of the Act. However, the evidence post-dates the applicant's second interview date. The regulation at 8 C.F.R. § 245a.3(b)(4)(i)(B)(iv) states that the applicant must provide evidence of "satisfactorily pursuing" a course of study either at the time of filing the Form I-698, subsequent to filing or at the time of the interview. The applicant was tested on July 15, 2010 and again on February 8, 2011. He submitted evidence of completing one course; however he failed to show that it fulfilled the requirements. On appeal, he submitted a certification of completion of a 60 hour course as of December 15, 2011, ten months after the date of his second interview.

The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act because his application for adjustment from temporary to permanent resident status was denied. As the applicant has not overcome the basis for the termination of status, the appeal must be dismissed. In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

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

¹ The applicant appealed the director's decision on the Form I-698 and the AAO dismissed the appeal.