

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**

[REDACTED]

A1

Date: NOV 30 2012 Office: NATIONAL BENEFITS CENTER FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application to Adjust Status from Temporary to Permanent Resident Status pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:
[REDACTED]

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied by the director of the National Benefits Center. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant is ineligible to adjust from temporary to permanent resident status because his temporary resident status was terminated.

The instant appeal was filed on May 7, 2012. Where asked to briefly state the basis for the appeal on the Form I-694, Notice of Appeal, counsel for the applicant stated as follows:

The field office director failed and erred in evaluating my evidence. The field office director failed to timely contact, and diligently corroborate my evidence and witnesses. . .

Counsel stated that he would submit a brief within 30 days of the processing the applicant's FOIA request. The record reflects that the applicant's FOIA request, number [REDACTED] was processed on August 20, 2012. Counsel has not submitted a brief on appeal. The applicant has not submitted any further evidence on appeal. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The regulation at 8 C.F.R. § 245a.3(b) provides:

Any alien who has been lawfully admitted for temporary resident status under section 245A of the Act, such status not having been terminated, may apply for adjustment of status to that of an alien lawfully admitted for permanent residence.

The applicant's temporary resident status was terminated on March 23, 2012.¹ The director determined that, pursuant to the above cited regulation, the applicant is no longer eligible to apply for permanent resident status because his temporary resident status was terminated.

As stated in 8 C.F.R. §103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not addressed the grounds stated for denial, nor has he presented additional evidence relevant to the grounds for denial or the stated reason for appeal. The appeal must therefore be summarily dismissed.

¹ The director of the Houston office terminated the applicant's temporary residence status, based on both a lack of documentation and inconsistent documentation in the record of proceedings.



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