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

21



FILE:

MSC-07-363-20629

Office: NATIONAL BENEFITS CENTER

Date: FEB 04 2009

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. 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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was rejected by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined that the applicant is ineligible to adjust status from temporary to permanent resident because her temporary residence was terminated.

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 of that of an alien lawfully admitted for permanent residence.

The director determined that pursuant to the above cited regulation, the applicant is no longer eligible to apply for permanent resident status because her temporary residence was terminated. The director accordingly rejected and administratively closed the applicant's permanent residence application, and refunded her filing fee.

The viability of the applicant's appeal is dependent upon the denial of her underlying application for permanent residence. *See* 8 C.F.R. § 245a.3(j). In this case, the applicant's permanent residence application was not denied but rejected. Since the applicant does not have a denied application on which she can file an appeal, her notice of appeal is moot. The appeal, therefore, must be rejected.

ORDER: The appeal is rejected.