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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED]  
XMA 88 133 4041

Office: VERMONT SERVICE CENTER

Date:

**JUL 24 2009**

IN RE: Applicant:



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:

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 service center director terminated the applicant's temporary resident status. The termination was then appealed to the Administrative Appeals Office (AAO). The AAO determined that the appeal was not filed in a timely manner, and rejected the appeal without rendering a decision. The matter is now before the AAO on a motion to reconsider.

The director terminated the applicant's temporary resident status on October 23, 1995 because the applicant failed to respond to a Notice Of Intent To Terminate (NOIT) within the time permitted for response. The applicant appealed the termination on September 20, 1999. The AAO does hereby reopen these proceedings sua sponte, and a decision shall be rendered on the merits of the applicant's appeal. The appeal will be dismissed.

The applicant was granted temporary resident status on May 3, 1989 under section 245A of the Immigration and Nationality Act (Act), as amended, 8 U.S.C. § 1255a. The applicant was required to file an application to adjust status from temporary to permanent resident within forty-three (43) months of receiving his temporary resident status. *See* 8 C.F.R. § 245a.3(b)(1). Pursuant to section 245A(b)(2)(C) of the Act, 8 U.S.C. § 1255a(b)(2)(C), a failure to file an application for adjustment to permanent residence within this statutory filing period will result in the termination of the applicant's temporary residence. The applicant filed his application to adjust status from temporary to permanent resident on October 19, 1994, which is outside the statutory filing period.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed solely on the basis of a denial for failure to file the application for adjustment of status under section 210 or 245A in a timely manner, will be summarily dismissed.

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