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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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SEP 14 2009

FILE: [REDACTED] Office: MILWAUKEE Date:
LIN-99-104-50274

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Adjustment 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:



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.

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, Milwaukee, Wisconsin is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reveals that the applicant filed a Form I-698 application to adjust from temporary to permanent resident status which was denied on May 27, 2008. The applicant filed a Form I-694 Notice of Appeal on June 26, 2008. This appeal was incorrectly rejected as untimely filed on February 5, 2009. On March 3, 2009, the applicant filed a Form I-290B Notice of Appeal of the director's decision rejecting the original appeal as untimely filed. The AAO notes that the director erred in rejecting the original appeal. The AAO will adjudicate the appeal as timely filed.

Following a *de novo* review of the entire record of proceedings, the AAO notes that the applicant was granted temporary resident status on September 30, 1988 under section 245A of the Immigration and Nationality Act (Act), as amended, 8 U.S.C. § 1255a. On February 3, 1991, Immigration and Naturalization Services now United States Citizenship and Immigration Services (USCIS) sent the applicant a letter to his address of record indicating that he was eligible to file for permanent resident status. On May 27, 1992, the applicant filed a Form I-698 but the application was rejected due to insufficient filing fee. The applicant submitted a completed Form I-698 on April 9, 1999.

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 April 9, 1999, which is seven years past the required 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.