

identifying data deleted to
prevent unauthorized
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PHOTOCOPY

4



SEP 17 2009

FILE: [Redacted]
XPW 80-511-04067

Office: CALIFORNIA SERVICE CENTER

Date:

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:

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 applicant's temporary residence was terminated by the Director, California Service Center. This decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In her decision, the director states that the applicant was granted lawful temporary residence on June 12, 1991. On April 16, 2007, the applicant filed Form I-698, Application to Adjust Status from Temporary to Permanent Resident. The director noted that the applicant was required to file an application for adjustment of status from temporary to permanent resident no later than January 11, 1995. Therefore, the director denied the application because the application was not filed within the statutory 43-month filing period.

On July 13, 2007, the director issued a Notice of Intent to Terminate (NOIT) and granted the applicant 30 days in which to submit evidence in rebuttal to the proposed termination of his temporary resident status. In response to the NOIT, the applicant wrote a letter stating that as of May 19, 1994, she requested the United States Citizenship and Immigration Services (USCIS) to adjust her status from temporary to permanent and that the USCIS refused, stating that it was not her time as yet. The record contains no evidence of the applicant's attempts to file for permanent residence as of May 19, 1994.

The applicant was granted temporary resident status on June 12, 1991 under section 245A of the Immigration and Nationality (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 her 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 her application to adjust status from temporary to permanent resident on April 16, 2007, 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.