

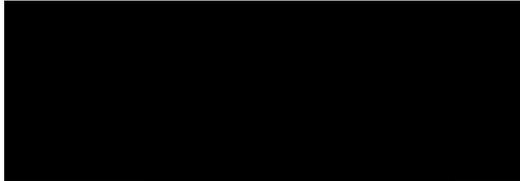
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529 - 2090

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U.S. Citizenship
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Services



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FILE: [REDACTED]
MSC-09-169-10050

Office: NATIONAL BENEFITS CENTER

APR 06 2010

IN RE: Applicant: [REDACTED]

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.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment 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 apply for adjustment from temporary to permanent resident because he has not been granted temporary resident status.

On appeal, the applicant states that he applied for temporary resident status, and that he did not appear for a scheduled interview due to an error on the part of his counsel of record, and because he was very sick. On appeal, the applicant has enclosed the following: a copy of a Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker filed on November 30, 1988, a copy of two Employment Authorization Documents, dated November 30, 1988 and March 30, 1989, respectively, an interview notice dated March 24, 1989, a Form I-705, Affidavit Confirming Seasonal Agricultural Employment, and a Form I-696, Legalization Worksheet. The record reflects that the applicant's I-700 application for temporary resident status was denied on May 8, 1991.

On appeal, the applicant alleges ineffective assistance of counsel. Any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988). The applicant has not submitted any of the required documentation to support an appeal based on ineffective assistance of counsel. Furthermore, United States Citizenship and Immigration Services (USCIS) is not responsible for the action, or inaction, of the applicant's counsel.

Any alien who has been lawfully admitted for temporary resident status may submit an application for lawful permanent resident status subsequent to the granting of lawful temporary resident status. 8 C.F.R. § 245a.3(a).

The record of proceedings does not contain any evidence that the applicant was, in fact, granted temporary resident status, therefore, the application was properly denied by the director on this ground.

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.

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