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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  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] Office: LOS ANGELES Date: **AUG 25 2010**

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:

[Redacted]

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.

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew  
Chief, Administrative Appeals Office

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

The director denied the adjustment application because the applicant's temporary resident status had been terminated, and the applicant was therefore not eligible for adjustment to permanent resident status. The director had terminated the applicant's temporary resident status because the applicant failed to establish continuous unlawful residence in the United States during the requisite period.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Act may be terminated at any time if (1) it is determined that the alien was ineligible for temporary residence under section 245A of the Immigration and Nationality Act (Act); (2) the alien commits an act which renders him or her inadmissible as an immigrant, unless a waiver is secured pursuant to 8 C.F.R. § 245a.2(k)(2); or (3), the alien is convicted of any felony, or three or more misdemeanors. 8 C.F.R. § 245a.2(u).

An alien whose temporary resident status has been terminated under 8 C.F.R. § 245a.2(u) is ineligible for adjustment from temporary to permanent resident status. 8 C.F.R. § 245a.3(c)(5).

On appeal, counsel asserts that the Form I-698 adjustment application should not be denied since the termination of the applicant's temporary resident status is on appeal. Counsel, however, cites no statute or regulation to support his position. Although counsel's argument would have some merit if the applicant's appeal to the termination of her temporary resident status had been sustained, a review of the record as of the date of this decision reveals that the appeal to the termination of her temporary residence had been dismissed by the AAO.

The applicant is not a temporary resident. Therefore, she is ineligible for adjustment from temporary to permanent resident status.

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