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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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FILE: [REDACTED] Office: LOS ANGELES Date: **FEB 05 2010**  
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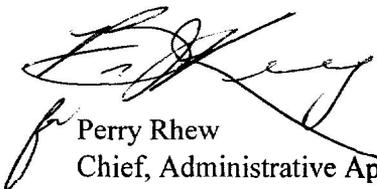
IN RE: Applicant: [REDACTED]

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.

IN 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 Director, Los Angeles, California, terminated the applicant's temporary resident status. The applicant filed an appeal with a request for a waiver of the \$545 filing fee for Form I-694. The fee waiver request is now before the Administrative Appeals Office (AAO) for consideration. The fee waiver request will be denied.

The record reveals that the applicant was granted temporary resident status on October 25, 1988 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, which would have been May 24, 1992. *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 record reflects that the required Form I-698, Application to Adjust Status from Temporary to Permanent, had not been filed.

The director issued a Notice of Intent to Terminate to the applicant on April 7, 2009. The applicant was given 30 days in which to submit evidence in rebuttal to the notice. The applicant, however, failed to respond to the notice. The director terminated the applicant's temporary residence on May 11, 2009.

On appeal, the applicant asserts that he is mentally ill, had been homeless from 1990 to 1998 and had been in a mental facility from 1998 to 2008. The applicant asserts that his medical condition prevents him from having meaningful employment and requests a fee waiver.

The regulation at 8 C.F.R. § 103.7(c) provides, in pertinent part, that the authority to grant a waiver of a filing fee falls to "[t]he officer of the Department of Homeland Security having jurisdiction to render a decision on the application, petition, appeal, motion or request." The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv).

The regulation at 8 C.F.R. § 103.3(a)(3)(ii) states an appeal must be accompanied by a nonrefundable fee as set forth in 8 C.F.R. § 103.7.

However, a fee relating to an appeal may be waived in any case under U.S. Citizenship and Immigration Services jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. § 1746, (1) asking for permission to prosecute without payment of fee of the appeal, or request, and (2) stating his or her belief that he

or she is entitled to or deserving of the benefit requested and the reasons for his for her inability to pay. 8 C.F.R. § 103.7(c).

In the instant case, the applicant submitted a request for fee waiver with the appeal; however, the applicant failed to credibly substantiate that he was unable to pay the required fee. The AAO may not approve the fee waiver request as it did not meet the regulatory requirements outlined in 8 C.F.R. § 103.7(c). Accordingly, the fee waiver request is denied.

**ORDER:** The fee waiver request is denied.