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



U.S. Citizenship
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FILE: [Redacted] Office: LEE'S SUMMIT Date: MAR 26 2010
MSC 05-223-10967

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:
[Redacted]

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.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary residence was terminated by the Director, Lee's Summit. This decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In his decision, the director states that the applicant was granted lawful temporary residence on July 11, 2005. On April 8, 2007, the applicant filed Form I-698, Application to Adjust Status from Temporary to Permanent Resident. In a Notice of Intent to Terminate (NOIT), dated January 9, 2009, the director noted that, upon a review of the record, the applicant did not qualify for temporary resident status. The director noted that the applicant had not established that he had entered the United States prior to January 1, 1982, and thereafter continuously resided in the United States in an unlawful status for the duration of the requisite period.

The NOIT granted the applicant 30 days in which to submit evidence in rebuttal to the proposed termination of his temporary resident status. On February 11, 2009, the United States Citizenship and Immigration Services (USCIS) received the applicant's response consisting of a letter from the applicant's attorney. Counsel did not submit any additional evidence for consideration and his explanation was found to be insufficient to overcome the director's grounds for termination. Therefore, the application was denied on March 31, 2009.

Section 245A(b)(2) of the Act states in pertinent part that the Act provides for termination of temporary residence status granted to an alien if it appears to the Attorney General, now Secretary, Department of Homeland Security, that the alien was in fact not eligible for such status, or the alien commits an act that makes the alien inadmissible to the United States as an immigrant, or the alien is convicted of any felony or three or more misdemeanors committed in the United States; or at the end of the 43rd month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

On appeal, counsel requested a copy of the record of proceedings under the Freedom of Information Act (FOIA). The record reflects that the FOIA request was processed on November 30, 2009. (NRC2009045973). On the Form I-694, counsel indicated that a written brief would be submitted within 30 days. To date, this office has no record that any further evidence or brief was received. Accordingly, a decision will be rendered based on the evidence of record.

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. It is evident from the record that the director considered all of the evidence submitted with the applicant's I-687 application. On appeal, counsel provided no new evidence or explanation to overcome the reasons for denial of the applicant's Form I-687 application.

A review of the decision reveals the director accurately set forth a legitimate basis for termination of the Form I-687 application. On appeal, counsel has not presented additional evidence and has not addressed the grounds stated in the director's denial. The appeal must therefore be summarily dismissed.

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