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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
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[REDACTED]

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 22 2010

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the director of the California Service Center is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the temporary resident status of the applicant because the applicant's Form I-698, application to adjust status from temporary to permanent resident, had been denied, and it had been more than 43 months since the approval of temporary residence.

On appeal, counsel for the applicant asserts that the termination of the applicant's temporary resident status was an abuse of discretion, because it was based upon an erroneous denial of the applicant's I-698 application. Counsel states that he will submit a brief within 30 days. Counsel has not submitted a brief. The applicant has not submitted any additional evidence on appeal.

Temporary residence shall be terminated at the end of the 43rd month beginning after the date the alien is granted such status, unless the alien has applied for adjustment to permanent residence and such application has not been denied. See Section 245A(b)(2)(C) of the Act.

The record reveals that the applicant was granted temporary resident status on June 19, 1989. On August 8, 2008, the director denied the applicant's I-698 application, finding that the applicant failed to establish that she satisfied the basic citizenship skills requirement of 8 C.F.R. § 245a.3(b)(4). Pursuant to 8 C.F.R. § 245a.3(b)(4)(iii)(B), the applicant was interviewed twice in connection with her application, on January 16, 2007 and June 19, 2007. On January 16, 2007, the applicant failed to demonstrate a minimal knowledge of United States history and government. On June 19, 2007, the applicant failed to demonstrate adequate proficiency in the English language.¹

The I-698 application has been denied and it has been more than 43 months since the grant of temporary residence. Counsel's statements made on appeal have been considered. Nevertheless, there exists no waiver of the requirements stated above.

Based on the foregoing, the applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis. As the applicant has not overcome the basis for the termination of status, the appeal must be dismissed.

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

¹ In addition, the record does not contain any evidence that the applicant satisfied the alternative "basic citizenship skills" requirement by satisfactorily pursuing a course of study recognized by the Attorney General. 8 C.F.R. § 245a.3(b)(4)(i)(B). Further the record does not contain any evidence that the applicant qualified for the grant of an exception to the basic citizenship skills requirement, or circumstances under which the Attorney General could consider a waiver of such requirement. 8 C.F.R. § 245a.3(b)(4)(ii).