

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

L1

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 14 2010

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Adjustment of Status from a Temporary to Permanent 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 director of the California Service Center denied the applicant's application for adjustment from temporary to permanent resident status, finding she had filed her Form I-698 more than 43 months after the date her application for temporary resident status had been approved. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

On appeal, counsel for the applicant asserts that the applicant never received notice of approval of her application for temporary resident status.

The entire record was reviewed and considered in rendering this decision.¹ The applicant was granted temporary resident status on April 13, 2005 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 her temporary resident status, which would have been November 15, 2008. *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 applicant filed her application to adjust status from temporary to permanent resident on November 6, 2009, which is outside the statutory filing period.

Accordingly, as stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed solely on the basis of a denial for failure to file the application for adjustment of status under section 210 or 245A in a timely manner, will be summarily dismissed.

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

¹ The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).