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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



L1

DATE: **APR 05 2012**

OFFICE: LOS ANGELES

FILE: 

IN RE: Applicant: 

APPLICATION: Application to Adjust from Temporary to Permanent Resident Status pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

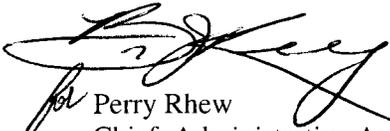
ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter 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.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status under Section 245A of the Immigration and Nationality Act (Act) was terminated by the Field Office Director (director), Los Angeles, California. The decision to terminate is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the Application to Adjust Status From Temporary to Permanent Resident (Form I-698) because it was filed after the statutory filing period had expired. The director referenced an April 26, 2011 Notice of Intent to Terminate informing the applicant that her temporary resident status would be terminated because her Form I-698 application was not filed within 43 months after she was granted temporary resident status.

On appeal, counsel concedes that the applicant filed her Form I-698 late, but contends that the applicant was not notified that her temporary resident status was about to expire or that she needed to file for adjustment of status. Counsel further asserts that denial would result in hardship to the applicant's father who relies on her for emotional and psychological support. Counsel submits a brief on appeal.

The temporary resident status of an alien may be terminated upon the determination that the alien was ineligible for temporary residence. Section 245A(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(b)(2)(A), and 8 C.F.R. § 245a.2(u)(i).

The Form I-687 approval notice clearly notifies that the regulations on section 245a.3 requires that the applicant must file an Application to Adjust Status From Temporary to Permanent Resident, Form I-698, before the end of the forty-third (43) month from the date of her approval. The approval notice further notifies that failure to timely file this application will result in the denial of her application for permanent resident and the termination of her temporary resident status.

We note counsel's assertion that hardship would result to the applicant's father who relies on the applicant for emotional and psychological support. However, there is no humanitarian exception for failing to timely file the Form I-698. The applicant was granted temporary resident status on June 5, 2007, and she was required to file her Form I-698 application no later than January 4, 2011. The record reflects that the applicant filed her Form I-698 application on January 28, 2011, after the statutory deadline. As the applicant failed to timely file her Form I-698 by the deadline, the appeal must be dismissed.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional probative evidence to overcome the stated reasons for the director's denial. The appeal must, therefore, be dismissed.

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