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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 30 2012**

OFFICE: LOS ANGELES, CA

FILE: 

IN RE: Applicant: 

ON BEHALF OF APPLICANT: SELF-REPRESENTED

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.

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,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Field Office Director (director), Los Angeles, is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act). The Form I-687 was approved. The director denied the Form I-698, Application to Adjust Status From Temporary to Permanent Resident, because it was filed after the statutory filing period had expired. The director noted that the applicant responded to an October 13, 2011 Notice of Intent to Terminate (NOIT) informing the applicant that his temporary resident status would be terminated because his Form I-698 application was not filed within 43 months after he was granted temporary resident status, and the applicant failed to overcome the reasons for denial.

On appeal, the applicant does not contest the reasons stated in the director's decision. Instead, the applicant alleges ineffective assistance of his preparer and asserts that his preparer failed to timely submit his application to adjust status, to his detriment. The applicant further asserts that termination would result in hardship to him and his family. The applicant submits a statement.

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 at section 245a.3 require that the applicant 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 he was granted temporary resident status. The approval notice further notifies that failure to timely file this application will result in the denial of the application for permanent resident status and the termination of the applicant's temporary resident status.

The applicant asserts that he was assisted by an individual who failed to timely submit his Form I-698 application. However, there is no remedy available for an applicant who assumes the risk of authorizing an unlicensed attorney or unaccredited representative to undertake representations on his behalf. *See* 8 C.F.R. § 292.1. The AAO only considers complaints based upon ineffective assistance against attorneys and accredited representatives. *Cf. Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988)(requiring an appellant to meet certain criteria when filing an appeal based on ineffective assistance of counsel). Furthermore, USCIS is not responsible for action, or inaction, of the applicant's representative.

We also note the applicant's assertion that hardship would result to him and his family if his temporary resident status is terminated. However, there is no humanitarian exception for failing to timely file the Form I-698.

The applicant was granted temporary resident status on August 17, 2007, and he was required to file his Form I-698 application no later than March 17, 2011. The record reflects that the applicant filed

his Form I-698 application on July 25, 2011, after the statutory deadline. As the applicant failed to timely file his 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 reasons for termination stated in the director's decision. The appeal must, therefore, be dismissed.

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