

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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

[Redacted]

Date: **AUG 30 2012** Office: TEXAS SERVICE CENTER

[Redacted]

IN RE: Applicant:

[Redacted]

APPLICATION: Application for Adjustment 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:

[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 if your case was remanded for further action, you will be contacted.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary resident status to permanent resident status was denied by the Director of the Texas Service Center. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded.

The director denied the application, finding the applicant had failed to timely file his Form I-698 application.

On appeal, counsel for the applicant states that the applicant did not learn that his Form I-687 application had been approved until 2011.¹

The matter will be remanded to permit the director to reopen proceedings.

The director erred in denying the Form I-698 because it had been filed more than 43 months after the date of approval. This is an impermissible basis to deny the Form I-698. See 8 C.F.R. § 245a.3(a)(2).

ORDER: The matter is remanded. If the director issues a decision that is adverse to the applicant, he or she shall certify it to the AAO.

¹ According to the record, the applicant filed his Form I-687 during the original legalization filing period. The director asserts that the application was approved on August 22, 1988 and that a letter in the record is evidence of notice of approval. The form letter indicating approval is from the New York District Office. It is undated and there is nothing on the form to associate it with the applicant such as his name or A-file number. However, the record contains a letter from the applicant that states he received a temporary resident card.