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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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DATE:

OFFICE: LOS ANGELES



**MAR 05 2012**

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: SELF-REPRESENTED

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 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 noted that the applicant was required to file his Form I-698 application within 43 months of May 16, 2007, the date he was granted temporary resident status, however, the applicant did not file the Form I-698 until May 16, 2011, about five months after the expiration of the filing date.

On appeal, the applicant states that he did not file the Form I-698 within 43 months of the approval of his temporary resident status because he needed to be in Mexico attending to his wife who was ill. He states that he was aware of the filing requirement to adjust status within 43 months of the approval date but was unable to do so because of his wife's medical condition. The applicant submits documentation pertaining to his wife's medical condition.

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 his approval. The approval notice further notifies that failure to timely file this application will result in the denial of his application for permanent resident and the termination of his temporary resident status.

We note the applicant's statement that he did not timely file his Form I-698 as he was in Mexico due to his wife's medical condition. However, there is no humanitarian exception for failing to timely file the Form I-698. As discussed above, the applicant was granted temporary resident status on May 16, 2007, and he was required to file his Form I-698 application no later than December 16, 2010. The record reflects that the applicant filed his Form I-698 application on May 16, 2011, five months after the statutory deadline. As the applicant failed to timely file his 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.