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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**

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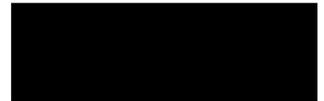


Date:

MAR 21 2012

Office: LOS ANGELES

FILE:



IN RE:

Applicant:



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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's temporary residence status was terminated by the Director, Los Angeles. This decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant was granted lawful temporary residence on August 19, 2005. On October 9, 2009, the applicant filed Form I-698, Application to Adjust Status from Temporary to Permanent Resident. The director determined that the Form I-698 was not timely filed and on May 4, 2011, issued a Notice of Intent to Terminate (NOIT) the applicant's temporary resident status and granted the applicant 30 days to submit evidence in rebuttal. The applicant did not respond to the NOIT. Therefore, on June 15, 2011, the director denied the Form I-687 application because the Form I-698 application was not filed within the statutory 43-month filing period.

On appeal, the applicant claims that he did not know the time to apply for his permanent resident document and that the United States Citizenship and Immigration Services (USCIS) did not inform him. The applicant states that these are the reasons why his case should be reopened. The record contains no evidence of the applicant's attempt to file for permanent residence prior to March 18, 2009.

Upon review, the AAO finds that the applicant was granted temporary resident status on August 19, 2005 under section 245A of the Immigration and Nationality (Act), as amended, 8 U.S.C. § 1255a. The applicant was required to file an application to adjust status from temporary to permanent resident on or before the end of the 43 months of receiving his temporary resident status which is March 18, 2009. *See* 8 C.F.R. § 245a.3(b)(1). This requirement was clearly stated on the approval notice. It states: "As required by Title 8, Code of Federal Regulations, Section 245a.3, you must file an application for adjustment from temporary to permanent resident status Form I-698, before the end of the forty-third (43) month from the date of your approval. Failure to timely file this application will result in the denial of your application for permanent resident and the termination of your temporary resident status." 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 his application to adjust status from temporary to permanent resident on October 9, 2009, which is outside the statutory filing period.

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 245A in a timely manner, will be summarily dismissed.

It is noted that according to two court records in the file, the applicant was convicted of violating section 647(b) of the California Penal Code, disorderly conduct/prostitution. The court suspended imposition of his sentence, placed him on probation and fined him. Proceedings were terminated on July 3, 1997. On [REDACTED], the applicant was convicted of violating section 23152(b) of the California Vehicle Code, driving while under the influence. [REDACTED]

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