



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF P-F-M-

DATE: MAR. 29, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

APPLICATION: FORM I-698, APPLICATION TO ADJUST STATUS FROM TEMPORARY TO PERMANENT RESIDENT (UNDER SECTION 245A OF PUBLIC LAW 99-603)

The Applicant, a native and citizen of Mexico, seeks to adjust status from temporary resident to lawful permanent resident. *See* Immigration and Nationality Act (the Act) § 245A, 8 U.S.C. § 1255(a). The Director, California Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

On June 6, 1997, the Director denied the Form I-698, Application to Adjust Status from Temporary to Permanent Resident, finding that the Applicant was ineligible because he had not filed for adjustment from temporary to permanent resident status within 43 months from the date of approval of his temporary residence application, as required by section 245A(b)(1)(A) of the Act, 8 U.S.C. § 1255a(b)(1)(A).

On appeal, the Applicant asserts that he timely filed his Form I-698. He also submits evidence related to his residence in this country.

The Applicant is seeking adjustment of status from temporary to permanent resident. To be eligible for adjustment from temporary to permanent resident under section 245A of the Act, an applicant must apply for such adjustment no later than 43 months from the date of the grant of temporary resident status.

Section 245A of the Act provides, in pertinent part:

(b) Subsequent Adjustment to Permanent Residence and Nature of Temporary Resident Status.-

(1) Adjustment to permanent residence.-The Attorney General [now Secretary of the Department of Homeland Security] shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

(A) Timely application after one year's residence.-The alien must apply for such

adjustment during the 2-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status

....

(f) Administrative and Judicial Review.- ....

(2) No review for late filings.-No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

The regulations at 8 C.F.R. § 245a.3(c)(3) further explain that an applicant who was previously granted temporary resident status pursuant to section 245A(a) of the Act who has not filed an application for permanent resident status under section 245A(b)(1) of the Act by the end of 43 months from the date of actual approval of the temporary resident application is ineligible for adjustment of status from temporary to permanent resident.

The record reflects that the Applicant was granted temporary resident status on January 26, 1993. He filed his Form I-698 on May 27, 1997, more than 43 months later. The Applicant's deadline to file his Form I-698 was August 25, 1996. The record indicates that the Director denied the Form I-698 on June 6, 1997, and sent the decision to the Applicant at his address of record. The Applicant filed the instant appeal on August 5, 2015, approximately 18 years later.

The Applicant's statements on appeal have been considered. However, no statutory provision permits administrative review of denials of adjustment of status under section 245A of the Act based on a late filing. Furthermore, the regulations at 8 C.F.R. § 103.3(a)(3)(iv) provide that any appeal which is filed solely on the basis of a denial for not filing the application for adjustment of status under section 245A of the Act in a timely manner must be summarily dismissed.

As the Applicant filed the appeal solely on the basis of denial for untimely filing the application for adjustment of status under section 245A of the Act, we must summarily dismiss the appeal.

The Applicant has the burden of proving eligibility for adjustment of status from temporary to permanent resident. Section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met that burden. Accordingly, we dismiss the appeal. This decision constitutes a final notice of ineligibility.

**ORDER:** The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(3)(iv).

Cite as *Matter of P-F-M-*, ID# 16225 (AAO Mar. 29, 2016)