



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

Date **AUG 02 2005**

[REDACTED]

Refer to file no. [REDACTED]

NOTICE OF DECISION

This notice is in reference to Form I-485, Application to Register Permanent Residence or Adjust Status, that was filed pursuant to Section 245 of the Immigration and Nationality Act (the "Act") at the California Service Center. You filed this form based on an approved Form I-140, Immigrant Petition for Alien Worker.

Section 245 of the INA states:

- (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

- (c) Subsection (a) shall not be applicable to . . . (7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status .


According to the information you provided, you entered the U.S. on January 9, 2003, and your valid nonimmigrant status expired on July 8, 2003. You had a previously pending Form I-485. However, during the time that application was pending you were in a period of authorized stay, not a valid nonimmigrant status. Therefore, at the time of filing this I-485, you were not in a lawful nonimmigrant status.

Section 245(i) of the Act provides for the filing of Form I-485 Supplement A, along with a penalty fee, for applicants who are not in compliance with Section 245(a). To be eligible for such provision, the applicant must have a qualifying visa petition filed with a priority date on or before April 30, 2001. You do not claim to have a qualifying visa priority date. A search of USCIS records does not show a qualifying priority date for you.

Section 245(k) of the Act provides a period of 180 days in which an applicant can be out of status and remain eligible to file Form I-485. However, the record shows that you have been out of status for a length of time beyond the 180-day period authorized under this section of law.

The record indicates that you are not eligible to adjust under Section 245(i), 245(k), or 245(a). Therefore, this application to adjust your status to that of lawful permanent resident is denied.

If you are no longer in a valid nonimmigrant status and you must depart the United States. You may call 1-800-375-5283 or for TTY 1-800-767-1833 for questions concerning immigration services and benefits..



Donald W. Neufeld
Director

cc: [REDACTED]
[REDACTED]