

L1

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

File:

Office: California Service Center

Date: AUG 18 2003

IN RE: Applicant:

Application: Application for Temporary 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

PUBLIC COPY

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, California Service Center, is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status pursuant to 8 C.F.R. § 245a.2(u)(1)(iv), because the applicant failed to file the application for adjustment of status from temporary to permanent resident on Form I-698 within the 43-month application period.

An adverse decision on an application for temporary resident status may be appealed to the AAO. Any appeal with the required fee shall be filed with the Service Center within thirty days after service of the notice of denial. An appeal received after the thirty day period has tolled will not be accepted. 8 C.F.R. § 245a.2(p).

The Notice of Termination was mailed by the Service (now the Bureau) on March 26, 1996 to the applicant's most current address of record. The record shows that the notice was returned by the United States Postal Service as undeliverable. On appeal, the applicant indicates that he had not heard anything from the Bureau since he had submitted his adjustment application. The record reveals that the applicant filed his Form I-698 adjustment application with the Bureau on August 18, 1993. On the Form I-698, the applicant listed his address of record as "[REDACTED]." The record further shows that the Bureau subsequently mailed the the Notice of Intent to Terminate and Notice of Termination to the applicant at this address and that both notices were returned by the postal authorities as undeliverable. The applicant failed to inform the Bureau of any change in his address of record prior to the receipt of a Freedom of Information Act request for a copy of the record on September 15, 1998. Therefore, the applicant's failure to receive correspondence relating to the termination of his temporary resident status was clearly of his own making and not due to any error attributable to the Bureau.

The appeal was received on August 7, 2002. The appeal was untimely filed, and therefore must be dismissed.

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