

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



LI

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JAN 03 2005

IN RE:

Applicant:



APPLICATION: Application for Temporary Resident Status under 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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The director terminated the applicant's temporary resident status because the applicant failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.

On appeal, the applicant points out that he has lived in the United States since 1979, and that his children are United States citizens. He states that he did not receive any papers from the Immigration and Naturalization Service (INS) from 1992 to 2002.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Act may be terminated at any time if the alien fails to file for adjustment of status from temporary to permanent resident on Form I-698 within forty-three (43) months of the date he/she was granted status as a temporary resident. *See* 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on August 16, 1988. The 43-month eligibility period for filing for adjustment expired on March 16, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was submitted on June 4, 2002. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

The original eligibility period of 31 months was extended to 43 months to better enable applicants to file timely applications. The burden to file the adjustment application in a timely manner remains with the applicant, or her parent or guardian. *See* 8 C.F.R. § 245a.3(d).

The applicant's statements made on appeal have been considered. Notices of approval of temporary residence, and notices advising aliens of the deadline by which to apply for permanent residence, were sent to aliens' last know addresses. Furthermore, INS and private organizations widely publicized the need to apply for permanent residence within the 43-month period.

There is no waiver available, even for humanitarian reasons, of the requirements stated above. As the applicant has not overcome the grounds for termination of status, the appeal must be dismissed.

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