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

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUL 12 2005

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. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 states he never received any notice or signed any statement acknowledging that he had to apply for permanent residence within a certain period. Earlier, in response to the notice of intent to terminate, the applicant indicated that he had renewed his employment authorization each year from 1988 to 2004 without being advised of the permanent residence requirement.

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 months of the date he/she was granted status as a temporary resident under § 245a.1 of this part. 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on December 16, 1991. The 43-month eligibility period for filing for adjustment expired on July 16, 1995. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was filed on April 12, 2001. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

The applicant claims he did not apply for adjustment in a timely fashion because he had not been advised of the need to do so. His assertion that Immigration And Naturalization Service (INS) employees at his local office did not advise him cannot be confirmed or rebutted from a review of the record. Nevertheless, INS and private voluntary organizations widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Approval notices for temporary residence, and letters advising aliens of the 43-month requirement, were sent to the aliens' last known addresses. Furthermore, 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. *See* 8 C.F.R. § 245a.3(d).

The applicant's statements made on appeal have been considered. Nevertheless, 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.