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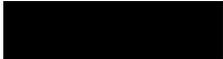


**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **JUL 18 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 cursive script, 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 explains that she is confused. She says she received a letter from the Immigration and Naturalization Service (INS) in 1993 advising her to apply for permanent residence. She states she did then apply, and furnishes two money orders from 1993 as proof.

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. 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on October 31, 1988. The 43-month eligibility period for filing for adjustment expired on May 31, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was received on November 15, 2001. The director therefore denied the untimely Form I-698 application, and subsequently terminated the applicant's temporary resident status.

The applicant asserts she filed an earlier Form I-698. She has not provided a photocopy of such earlier Form I-698. There is no evidence of the filing of that application, or of the letter she said she received in 1993 urging her to apply. She has provided photocopies of money orders from March and April 1993 that may relate to an attempt to file the application then. However, an application filed then would have still been almost a year late.

The applicant's statements made on appeal have been considered. Nevertheless, there is not sufficient evidence available to conclude that she filed a timely application for adjustment to permanent residence. There is no waiver available, even for humanitarian reasons, of the requirement to have filed a timely application. As the applicant has not overcome the basis for termination of status, the appeal must be dismissed.

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