



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: SEP 27 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.

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 stated that he had resided in the United States since 1981, and had applied at the same time as his mother and sister. He requested a copy of the record, and indicated that he would submit a full appellate statement once he received such copy. However, although the director complied with the request, the applicant did not respond further.

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 September 16, 1988. The 43-month eligibility period for filing for adjustment expired on April 16, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was submitted on June 9, 1993. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

The applicant's statement made on appeal has been considered. It is not clear when his mother and sister applied. At any rate, there is no evidence in the record of an earlier filing by the applicant.

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 known addresses. Furthermore, the Immigration and Naturalization Service and private organizations widely publicized the need to apply for permanent residence within the 43-month period. 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).

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.