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U.S. Citizenship
and Immigration
Services



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FILE:



Office: California Service Center

Date: AUG 02 2006

XEM 88 092 5088

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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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 apologizes for trusting a person who said she would take care of filing the application. The applicant also points out she changed her address. Finally, she asks for another opportunity to be considered for permanent resident status.

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 April 5, 1988. The 43-month eligibility period for filing for adjustment expired on November 5, 1991. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was received on April 28, 2004, over twelve years late. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

The applicant states that she entrusted an unnamed person to file her application in a timely manner, and that such individual failed to do so. Correct filing advice was available from the legacy Immigration and Naturalization Service (INS) and voluntary organizations. INS and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS sent notices to aliens' last known addresses, specifically advising them of the requirement. As the applicant's mother filed her own application in a timely manner, it must be concluded that the family had the proper knowledge needed to pursue permanent resident status. 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.