



U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**



FILE: [REDACTED]  
XCN-88-213-1041

Office: Vermont Service Center

Date: **DEC 14 2006**

IN RE: [REDACTED]

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

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

The applicant appears to be represented. However, [REDACTED] is not an attorney or an accredited representative, and is not authorized to represent individuals in immigration proceedings. Therefore, this decision will be sent to the applicant only.

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 she is the beneficiary of an approved relative petition.

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).

In a letter dated January 9, 1996, the director incorrectly stated the applicant had been granted temporary resident status on June 5, 1988. The applicant was granted temporary resident status on November 7, 1989. The 43-month eligibility period for filing for adjustment expired on June 7, 1993. The applicant never filed the Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698). The director therefore terminated the applicant's temporary resident status.

In a letter dated November 14, 1995, the applicant stated that she applied for permanent residence approximately two years earlier. However, later in the same letter she explained that she did not follow through, and thought that her father had taken care of the matter. She indicated that she would like to know her status, and what she could do to be granted and be given another chance to apply for permanent residence.

The applicant has not provided a photocopy of a permanent residence application, or a receipt, or any other proof that she applied for permanent residence. It is concluded that she misspoke when she referred to such an application in her letter.

The Immigration and Naturalization Service (INS) and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS did send notices to aliens' last known addresses, specifically advising them of the requirement. It is noted that the applicant had moved by the time she inquired in 1995, and any prior notices sent to her may have been sent to her past address.

It is further noted that 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. 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.