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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XEU-87-027-1001

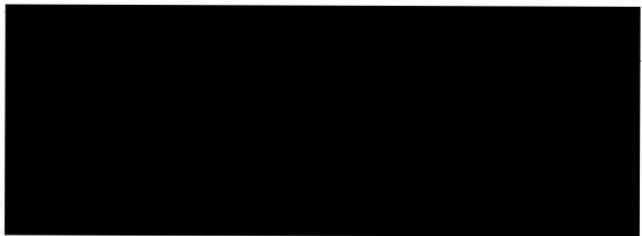
Office: California Service Center

Date: DEC 18 2006

IN-RE: Applicant: [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:



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, 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 points out that his family needs him. He refers to having sent an application for adjustment from temporary to 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 or 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 28, 1987. The 43-month eligibility period for filing for adjustment expired on July 28, 1991. There is no indication that an Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was ever received by the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services. The director therefore terminated the applicant's temporary resident status.

On appeal the applicant states that, over the years, he has sent applications, cash and money orders for the adjustment to permanent residence process. He provides no evidence of such submissions. The record does contain a note from the applicant, apparently written in 1998, in which he indicated that he had sent a \$75.00 fee to INS in 1990. The record contains no 1990 filing, and \$75.00 was never the correct fee for the adjustment application.

Advice concerning the filing of an adjustment application was available from the INS and voluntary organizations. 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. However, 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.