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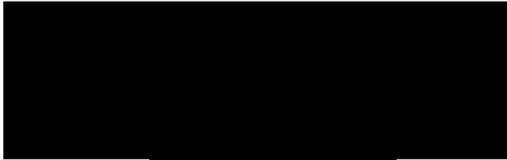
U.S. Department of Homeland Security
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Washington, DC 20529



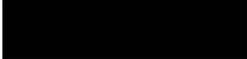
U.S. Citizenship
and Immigration
Services

L1

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FILE:



XMA 87 096 8021

Office: VERMONT SERVICE CENTER

Date: SEP 28 2006

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. The file has 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, Chief
Administrative Appeals Office

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

The director terminated the applicant's temporary resident status because the applicant failed to file the Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, within the 43-month application period as required by section 245A(b)(2)(C) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(b)(2)(C).

On appeal, the applicant contends that she never received notice from the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) informing her that she had been granted temporary resident status.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(1), 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 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 March 4, 1988. The 43-month eligibility period for filing for adjustment expired on October 4, 1991. A review of the record reveals that as of the date of this decision, the applicant has not filed the Form I-698 adjustment application. The director therefore terminated the applicant's temporary resident status because the applicant had failed to file a Form I-698 adjustment application within the 43-month application period.

The applicant asserts that the Service never provided her with notice that she had been granted temporary residence. However, a review of Service records reveals that upon approval of a Form I-687, Application for Status as a Temporary Resident, and a corresponding entry of such information in Service computer records, a computer-generated notice of approval was issued and mailed to the applicant at her last known address of record. In this particular case, the record does not contain any evidence demonstrating that the approval notice mailed to the applicant was returned as undeliverable. Therefore, the assertion that the applicant never received notice that she had been granted temporary resident status by the Service must be considered to be without merit.

The Service and private voluntary organizations widely publicized the procedures of the amnesty program, including the necessity of applying for permanent residence. If the applicant required assistance in pursuing his application, such assistance was widely available with inquiries to the Service, from private nonprofit Qualified Designated Entities, and from private legal assistance resources. Furthermore, the original eligibility period of 31 months was extended to 43 months to better enable applicants to file timely applications. The burden to duly file the Form I-698 adjustment application in a timely manner remains with the applicant. 8 C.F.R. § 245a.3(d).

The statements 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.