



U.S. Citizenship
and Immigration
Services

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FILE:

XRR 88 166 1246

Office: CALIFORNIA SERVICE CENTER

Date:

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

DISCUSSION: The applicant's temporary resident status was terminated by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status based on the determination that the applicant failed to timely file an application to adjust her status to that of a permanent resident.

On appeal, the applicant claims that Citizenship and Immigration Services (CIS) has not sent mail to a correct address and that as a result she has not received adequate notice.¹ It is unclear which notices the applicant claims she did not receive.

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 July 7, 1998. The 43-month eligibility period for filing for adjustment expired on February 6, 2002. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was first received by CIS on April 4, 2002. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

Despite the applicant's statements on appeal in which the applicant claims CIS sent various correspondence to an incorrect address, there is no evidence that she was not properly advised of the need to file a timely application to adjust her status to that of a permanent resident. CIS and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, CIS 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 applied for adjustment to permanent residence, and any prior notices sent to her may have been sent to the original address, which would have been the only address CIS had on file.

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. It is not apparent that the applicant was improperly advised by CIS. 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.

¹ The record shows that the appeal was filed on behalf of the applicant by an attorney. Since the filing, however, counsel has withdrawn his representation of the applicant in this matter. Therefore, all further correspondence from CIS will be sent only to the applicant.