



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED]
XSN 88 119 1030

Office: NEBRASKA SERVICE CENTER

Date: FEB 05 2007

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:

[REDACTED]

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, Nebraska Service Center, is 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 application for adjustment of status from temporary to permanent residence within the 43-month application period.

On appeal, the applicant states that he believes he should be a permanent resident of the United States. He submits evidence relating to his residence in the United States.

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 May 24, 1988. The 43-month eligibility period for filing for adjustment expired on December 24, 1991. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was first received by the Immigration and Naturalization Service, now Citizenship and Immigration Services, on February 17, 2000. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant states that he believes he should be a permanent resident of the United States. When the applicant filed his Form I-698, Application to Adjust Status from Temporary to Permanent Resident, he explained that he was a high school student during the 43-month application period, and his parents failed to file the adjustment application on his behalf.

The applicant's statements on appeal have been considered. Nevertheless, there is no waiver, even for humanitarian reasons, for failure to file the Form I-698 within the 43-month application period. As the applicant has not overcome the basis for termination of status, the appeal must be dismissed.

It is noted that the applicant's 2007 fingerprint results report revealed the following offenses:

1. On June 7, 1997, the applicant was arrested in San Antonio, Texas, and charged with theft of property valued at \$50 to \$500. Although the record does not contain a court document revealing the final court disposition of this arrest, the fingerprint results report indicates that the applicant was granted deferred adjudication of guilt.
2. On September 6, 1999, the applicant was arrested in San Antonio, Texas, and charged with criminal mischief causing damage in the amount of \$50 to 500. Although the record does not contain a court document revealing the final court

disposition of this arrest, the fingerprint results report indicates that the applicant was convicted of this charge.

These offenses must be addressed in any further proceeding before CIS.

The applicant is ineligible for temporary residence for the above stated reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.