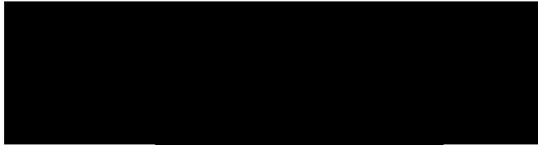




U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



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FILE:

XDA 87 040 2053

Office: NEBRASKA 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 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 concedes the director's finding and provides an explanation in an effort to overcome the ground for termination.

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 December 9, 1987. The 43-month eligibility period for filing for adjustment expired on July 9, 1991. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was first received by Citizenship and Immigration Services on July 31, 2000. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant concedes the untimely filing with respect to the 1987 approval of his application for adjustment of status to that of temporary resident. The applicant further claims that he has since filed another application for adjustment of status from temporary to permanent residence, which he claims is based on a June 5, 2000 approval for temporary resident status.

However, the applicant's contention that he was granted temporary resident status other than on December 9, 1987 is not corroborated by the evidence of record. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant's application for adjustment from temporary to permanent resident status was denied on June 26, 2001, because the applicant failed to file the application within the allotted 43-month period.

The applicant had thirty (30) days in which to appeal the director's decision terminating his temporary resident status. However, he failed to do so. While the applicant has now submitted documentation in an effort to overcome the ground for denial of adjustment to permanent residence, such argument would have had to have been submitted with an appeal of that decision in order to receive consideration.

The application for adjustment of status has been denied and it has been more than 43 months since the grant of temporary residence. The applicant has failed to overcome the director's ground for termination. Therefore, temporary residence shall be terminated.

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