



U.S. Citizenship
and Immigration
Services

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FILE:

XAU 88 127 1021

Office: TEXAS SERVICE CENTER

Date: FEB 12 2007

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, Texas 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 never received the notice of intent to terminate his temporary 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/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 January 3, 1989. The 43-month eligibility period for filing for adjustment expired on August 3, 1992. The applicant's Form I-698, Application to Adjust Status from Temporary to Permanent Resident, was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS) until December 2, 1992. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, the applicant stated that he never received the notice of intent to terminate his temporary resident status. The applicant indicated that a brief and/or additional evidence will be submitted within 30 days of the filing of the appeal. To date, CIS has not received a brief or any additional evidence. Therefore, the record will be considered complete.

The record contains signed a postal return receipt signed by the applicant on September 30, 2000, acknowledging receipt of the Notice of Intent to Terminate dated September 25, 2000. A second Notice of Intent to Terminate was mailed to the applicant at his updated address, [REDACTED], on March 2, 2001. The record contains a postal return receipt signed on March 8, 2001, acknowledging receipt of the notice. Therefore, the applicant's claim that he never received the notice of intent to terminate cannot be accepted.

The applicant's statement on appeal has 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.

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.