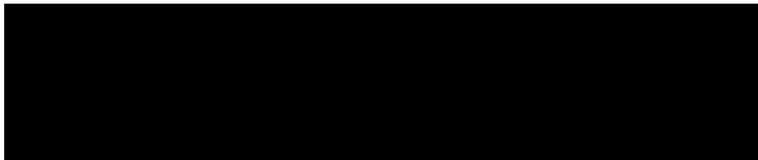




U.S. Citizenship
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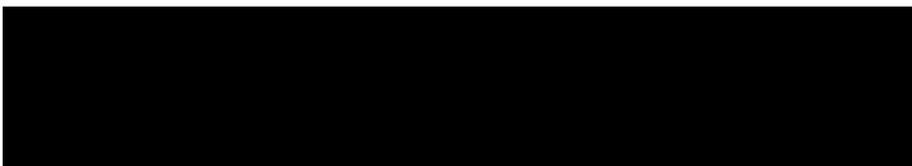
Office: VERMONT SERVICE CENTER

Date: FEB 12 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:



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, Vermont 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, counsel for the applicant states that the applicant was a child when she became a temporary resident and was not aware of the requirement to file a Form I-698, Application to Adjust Status from Temporary to Permanent Resident, within the 43-month application period.

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 August 22 1989. The 43-month eligibility period for filing for adjustment expired on March 22, 1993. The applicant's Form I-698 was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), until August 2, 1999. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, counsel states that the applicant was only 17 years old when she was granted temporary resident status. Counsel asserts that the applicant was unable to appreciate the need to file a Form I-698 within 43 months of the approval of her temporary resident status at that time.

While the applicant may have been seventeen years old at the time she was granted temporary resident status, her age did not prevent her from seeking information regarding the legalization process from other available sources. If the applicant required information and assistance in pursuing her application, such information and assistance were widely available with inquiries to the Immigration and Naturalization Service, from private nonprofit Qualified Designated Entities, and from private legal assistance resources. Additionally, the Service and private voluntary organizations widely publicized the procedures of the legalization program, including the necessity of applying for adjustment to permanent residence within the requisite period. Furthermore, it is noted that the applicant reached the legal age of adulthood before the expiration of the 43-month application period.

Counsel contends that the applicant has four times attempted to file an application for adjustment of status to lawful permanent resident under the LIFE Act.¹ The only issue under consideration in this case is the termination of the applicant's temporary resident status due to her failure to file

¹ The applicant's LIFE Act application is separate and apart from her application to adjust status from temporary to permanent resident under Section 245A of the Act.

her adjustment application within the 43-month application period. The AAO will not address the applicant's attempts to file adjustment applications under the LIFE Act.

Counsel'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.

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.