

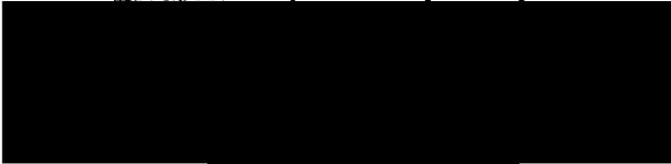


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XHP 88 505 6087

Office: CALIFORNIA 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: 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, California 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 failed to file his adjustment application during the 43-month application period due to unfortunate circumstances in his personal life.

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 October 21, 1988. The 43-month eligibility period for filing for adjustment expired on May 20, 1992. The applicant's Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was not received by the Immigration and Naturalization Service (the Service), now Citizenship and Immigration Services, until May 10, 2004. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant states that his son, [REDACTED] was diagnosed with a heart murmur when he was born on August 29, 1991. The applicant explains that he frequently had to take his son to doctor's appointments during the period from October through December 1991. The applicant explains that he and his wife separated in April 1992, and he moved to a different address and only infrequently received notices from the Service. The applicant states that he and his wife were subsequently divorced, and since that time he has worked to support his son and his ex-wife.

The applicant's statements made on appeal have been considered. Nevertheless, there is no waiver, even for humanitarian reasons, of the requirement to file the application to adjust status from temporary to permanent residence within the 43-month application period.

The applicant is ineligible for temporary residence for the above stated reason. Therefore, the appeal must be dismissed.

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