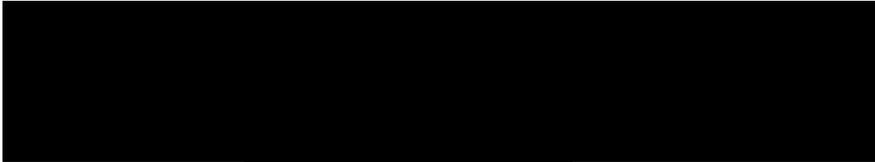




U.S. Citizenship
and Immigration
Services

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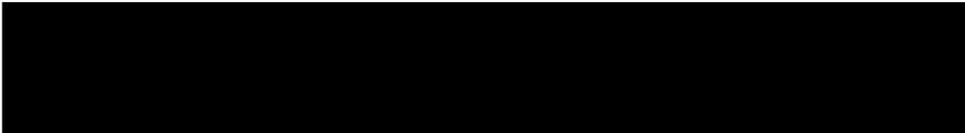
Office: NEBRASKA SERVICE CENTER

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, 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, counsel for the applicant states the applicant believed that her mother had filed the adjustment application on her behalf utilizing the services of an attorney who passed away while her application was still pending.

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 November 18, 1992. The 43-month eligibility period for filing for adjustment expired on June 18, 1996. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services, until May 14, 2001, almost five years after the expiration of the 43-month application period. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, counsel for the applicant states that the applicant believed that her mother had submitted a Form I-698 on her behalf during the requisite period. Counsel explains that the applicant's mother was diagnosed with cancer in 1998, and remained ill until she passed away in November 1999. Counsel states "[o]nly after her mother's death, [REDACTED] realized that the petition for adjustment from temporary resident to permanent resident was not filed."

The applicant's statements made on appeal through counsel have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. As the applicant has not overcome the grounds for termination of his temporary resident 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.