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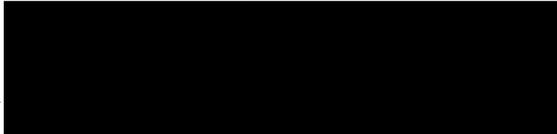
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
WAC 99 245 50854

Office: CALIFORNIA SERVICE CENTER

Date: FEB 16 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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, California Service Center is now 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 apply for adjustment to permanent resident status within the required period.

On appeal, the applicant states that she never received "the first notice sent" and that "the one notice was sent to [her] previous address in Tempe, AZ." It is unclear which notice the applicant claims she did not receive. The record shows that she received both the Notice of Intent to Terminate and the Notice of Termination because she timely responded to both notices.

On appeal, the applicant also states, "I understand that my application for permanent resident [sic] was never received. If you could please tell me what to do to take care of this matter."

Section 245A(b)(2) of the Act states, in pertinent part:

Termination of temporary residence. – The [Secretary of Homeland Security] shall provide for termination of temporary resident status granted an alien under subsection (a) –

* * *

(C) at the end of the 43rd month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

The corresponding regulation at 8 C.F.R. § 245a.2(u)(1)(iv) further prescribes that 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 "[t]he alien fails to file for adjustment of status from temporary resident to permanent resident on Form I-698 within forty-three (43) months of the date he/she was granted status as a temporary resident[.]" The applicant bears the burden to timely file the application for adjustment from temporary to permanent resident status within the prescribed 43-month period. See 8 C.F.R. § 245a.3(b)(1). The statute and regulations do not allow a waiver of untimely filing.

The record in this case shows that the applicant was granted temporary resident status under section 245A(a)(1) of the Act on February 27, 1989. The applicant had until September 26, 1992 to file a Form I-698, application to adjust from temporary to permanent resident status. In response to the Notice of Intent to Terminate, the applicant submitted a copy of a Form I-698 completed and signed by the applicant on November 19, 2002. The record contains no evidence that this application was actually received by the former Immigration and Naturalization Service. Even if received, however, the application would have been untimely filed as the applicant dated the application over ten years after the expiration of the 43-month filing period.

The applicant did not file a Form I-698 within the requisite 43-month period. Accordingly, the applicant's status was properly terminated pursuant to section 245A(b)(2) of the Act and the corresponding regulation at 8 C.F.R. § 245a.2(u)(1)(iv).

In his decision, the director properly set forth a valid basis for termination of the applicant's status. The applicant's statements on appeal fail to overcome the basis for the termination. Accordingly, the appeal will be dismissed.

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

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AEGIS INSURANCE COMPANY
P.O. BOX 3153
HARRISBURG, PA 17105

FILE: A95 931 030 Office: BALTIMORE Date: FEB 16 2007

IN RE: Obligor: AEGIS INSURANCE COMPANY
Bonded Alien: ALEXANDER ADRIAN BELTRAN GALDAMEZ

IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under Section 103 of the
Immigration and Nationality Act, 8 U.S.C. § 1103

ON BEHALF OF OBLIGOR:

DOUGLAS S. WOOD
300 YORKSHIRE DRIVE
WILLIAMSBURG, VA 23185

DISCUSSION: The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Baltimore, Maryland. The matter is now before the Administrative Appeals Office on appeal. On April 15, 2005, Aegis Insurance Company executed a Settlement Agreement with the Department of Homeland Security (DHS), in which it agreed to waive all appeal rights for existing and future bond determinations whose breach DHS invoiced as of January 14, 2005, and to withdraw any appeals currently pending at this office.

Pursuant to the terms of the April 15, 2005 Settlement Agreement, this appeal is withdrawn. All documents have been returned to the office that originally decided the case. Any further inquiry must be made to that office.

ORDER: The appeal is dismissed based on its withdrawal by the obligor.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

2 Robert P. Wiemann, Chief
Administrative Appeals Office