



U.S. Citizenship
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Services

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FILE:

[Redacted]
XLA 88 512 3500

Office: CALIFORNIA SERVICE CENTER

Date: JAN 19 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.

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

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 she has always submitted all documentation requested, including her application to adjust status from temporary to permanent resident.

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 29, 1988. The 43-month eligibility period for filing for adjustment expired on June 28, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was first received by the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on December 4, 1992. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant states, "I have always done as told by USCIS and I have filled out and sent back any and all documentation requested, including application to adjust status from temporary resident to permanent resident." She further states that she has gone to the local CIS office to each year to renew her employment authorization each year and has always inquired about the status of her case.

The applicant's statements on appeal have been considered. The fact remains that the applicant failed to file her Form I-698 within the 43-month application period. There is no waiver available, even for humanitarian reasons, of the requirement to file a timely adjustment application. The burden to file the adjustment application in a timely manner remains with the applicant. *See* 8 C.F.R. § 245a.3(d). As the applicant has not overcome the basis for the termination of her 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.