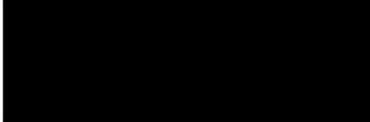




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
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FILE: [REDACTED]
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Office: NEBRASKA SERVICE CENTER

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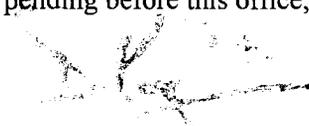
IN RE: Applicant: [REDACTED]

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, 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, the applicant submits a statement from his wife who explained that the applicant moved around without providing forwarding addresses.

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 3, 1987. The 43-month eligibility period for filing for adjustment expired on June 3, 1991. There is no evidence on record to suggest that the petitioner filed an application to adjust his status to that of a permanent resident. The director therefore terminated the applicant's temporary resident status.

On appeal, the statement of the applicant's wife explains why the applicant may not have known that his temporary resident status was approved and, therefore, was unable to calculate the time period for filing the application to adjust his status to that of a permanent resident. However, the applicant sustains the burden to notify Citizenship and Immigration Services (CIS) of any change of address. The applicant admittedly failed to notify CIS of his changes of address, which precluded his receipt of CIS notices informing him of the need to file the Form I-698 within the statutorily prescribed 43-month period.

CIS, formerly Immigration and Naturalization Services (INS), and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS did send notices to aliens' last known addresses, specifically advising them of the requirement. It is further noted that the original eligibility period of 31 months was extended to 43 months to better enable applicants to file timely applications. 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 termination of status, the appeal must be dismissed.

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