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U.S. Citizenship
and Immigration
Services

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FILE:



XCO 88 019 1012

Office: TEXAS SERVICE CENTER

Date:

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 Director, Texas Service Center terminated the applicant's temporary resident status. The director subsequently reopened the case and affirmed his prior decision. The case is now before the Administrative Appeals Office 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.

The director reopened the case on April 22, 2005, and subsequently reinstated his prior decision on July 29, 2005, stating that the case had been reopened in error.

On appeal, the applicant states that he is enclosing his medical records to establish his reason for failing to file a timely Form I-698, Application to Adjust Status from Temporary to Permanent Resident; however, the record does not contain any medical documents relating to the applicant's claimed illness during the 43-month application period. Therefore, the record will be considered complete.

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 July 20, 1989. The 43-month eligibility period for filing for adjustment expired on February 20, 1993. The applicant's Form I-698 was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), until June 14, 1999. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, the applicant explains that he failed to file his Form I-698 within the 43-month application period because for medical reasons and because he "had no idea how to go about it."

The applicant's statements on appeal have been considered. Nevertheless, there is no waiver, even for humanitarian reasons, for failure to file the Form I-698 within the 43-month application period. As the applicant has not overcome the basis for termination of 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.