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U.S. Department of Homeland Security  
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**U.S. Citizenship  
and Immigration  
Services**

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FILE: [REDACTED]  
XEL 88 036 5061

Office: TEXAS SERVICE CENTER

Date: MAR 02 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The termination of the applicant's temporary resident status by the Director, Texas 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 her attorney never forwarded any correspondence from the Immigration and Naturalization Service (the Service), now Citizenship and Immigration Services (CIS), regarding her case.

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 February 3, 1989. The 43-month eligibility period for filing for adjustment expired on September 3, 1992. The applicant's Form I-698 was not received by the Service until February 6, 1997. The director, therefore, denied the application and terminated the applicant's temporary resident status.

On appeal, the applicant states that her attorney failed to forward any Service correspondence to her regarding her application. She requests that all correspondence regarding her case be mailed directly to her and states that she is available for an adjustment interview and has sufficient proof of her residence in the United States.

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.

It is noted that the applicant was apprehended near Bovina, Texas, on March 18, 1998, along with her brothers. She did not have in her possession at that time any documents authorizing her to live and work in the United States. She chose to return voluntarily to Mexico rather than institution of removal proceedings. She returned voluntarily to Mexico the same day, March 18, 1998.

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