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U.S. Citizenship
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Services

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MAR 12 2007

FILE:



Office: VERMONT SERVICE CENTER

Date:

XMA 88 029 6029

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, Vermont 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 requests that the present matter be reopened, as he never received the service's notices.

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 19, 1988. The 43-month eligibility period for filing for adjustment expired on February 19, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was first received by Citizenship and Immigration Services (CIS) on July 20, 1999. The director therefore terminated the applicant's temporary resident status.

On appeal, the applicant states that he has been residing in the United States since he was nine years old and requests the opportunity to become a permanent resident so that he can continue to provide for his family. Additionally, in a separate letter dated January 10, 1999, which the applicant submitted along with his Form I-698, the applicant claimed his mother filed all the initial paperwork and did not tell him that additional paperwork would need to be submitted after the application for temporary status was approved.

The applicant's contention simply cannot be confirmed by a review of the record. CIS and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, CIS did send notices to aliens' last known addresses, specifically advising them of the requirement. It is noted that the applicant first corrected the address initially indicated in his Form I-687 when he filed the Form I-698 on July 20, 1999. All prior notices had been sent to the applicant's address as it appeared in his Form I-687.

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. By the time the applicant's 43-month filing deadline had expired, he was 22 years of age and legally considered an adult. The burden to file the adjustment application in a timely manner remains with the applicant. See 8 C.F.R. § 245a.3(d).

The applicant's statements made on appeal have been considered. It is not apparent that the applicant was improperly advised by CIS. 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.