



U.S. Citizenship
and Immigration
Services

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FILE:

XHU 88 090 2102

Office: TEXAS SERVICE CENTER

Date: MAR 14 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's temporary resident status was terminated by the Director, Southern Service Center. The case was subsequently remanded by the Chief, Legalization Appeals Unit (LAU), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status on April 27, 1999, 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 stated that he been in temporary resident status since 1988.

On May 23, 2000, the Chief of the LAU noted that the record did not contain any documentation reflecting the date the applicant was actually granted temporary resident status and remanded the case for incorporation into the record of proceeding of such documentation. The service center director subsequently placed a computer printout reflecting the date the applicant was granted temporary resident status into the record of proceeding and forwarded the record to the AAO for adjudication of the appeal.

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 March 24, 1988. The 43-month eligibility period for filing for adjustment expired on October 24, 1991. The applicant's Form I-698 was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), until December 1, 1997. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, the applicant states that he has held temporary resident status since 1988. He further states that he submitted information "about two months ago" but he doesn't know what happened. The applicant submits photocopies of his temporary resident card, his Social Security Card, and his Texas Driver's License.

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.