



U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

Date: **MAR 14 2007**

SRC 96 171 50946

IN RE:

Applicant:



APPLICATION: Application for Adjustment from Temporary to Permanent Resident Status under 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: This matter is an application for adjustment from temporary to permanent resident status denied by the Director, Service Center. The matter is before the Legalization Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the adjustment application because the applicant's Form I-687 application for adjustment of status to that of a temporary resident had been denied, and the applicant was therefore not eligible for adjustment to permanent resident status. The director denied the application for temporary resident status because the applicant failed to comply with a request for additional evidence.

On appeal, the applicant provides a letter explaining that she did not receive correspondence sent out by Citizenship and Immigration Services (CIS) because she did not have a permanent address due to personal hardships.

An alien who was not granted temporary resident status under 8 C.F.R. 245a.2(u) is ineligible for adjustment from temporary to permanent resident status. 8 C.F.R. 245a.3(c)(4).

An applicant for temporary resident status under section 245A of the Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. 8 C.F.R. 245a.2(d)(5).

The record reveals that the director sent out a notice dated July 7, 1989 informing the applicant that she is excludable and that she would need to file a Form I-690, Application for Waiver of Excludability, in order to establish her eligibility to adjust her status to that of a temporary resident. The applicant failed to respond by submitting the requested documentation. Therefore, the director denied the application for temporary resident status in a decision dated January 2, 1990.

The applicant had thirty (30) days in which to appeal the director's decision denying the application for temporary resident status. However, she failed to do so. While the applicant has now come forward with an explanation for her failure to address the director's request for additional evidence, the AAO does not have the discretion to disregard the fact that the applicant is not a temporary resident and is therefore ineligible for adjustment from temporary to permanent resident status.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility for adjustment from temporary to permanent resident status.