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

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[REDACTED]

FILE: [REDACTED]  
XOP 88 001 2078

Office: TEXAS SERVICE CENTER

Date: MAR 29 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 based on the determination that the applicant failed to file a Form I-698 within the required 43-month period.

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 23, 1989. The 43-month eligibility period for filing for adjustment expired on October 23, 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 January 18, 1996. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant claims that she did not apply for adjustment in a timely fashion because she was a minor at the time she was first eligible to apply and was of the need to timely file such an application. She states that she relied on her mother to file the proper paperwork and while her mother filed to change her own status to that of a permanent resident, the same was not done for the applicant.

Based on the applicant's statement, there is no indication that her untimely filing was the result of having been improperly advised at a service office. Furthermore, Citizenship and Naturalization Services (CIS) and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. CIS also sent notices to aliens' last known addresses, specifically advising them of the requirement.

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. 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. While the applicant's explanation for not having filed a timely adjustment application may be credible, there is not statute or regulation that allows the AAO the discretion to consider and treat as timely an untimely filed I-698 application. 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.