



U.S. Citizenship
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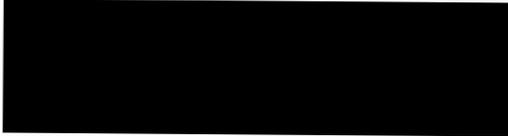
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Office: TEXAS SERVICE CENTER

Date: MAY 16 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 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 submits a statement acknowledging that he failed to file a timely application to adjust his status to that of a permanent resident, but claimed that such failure was the result of having been improperly informed by service officers.

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 June 12, 1989. The 43-month eligibility period for filing for adjustment expired on January 12, 1993. Although the applicant claims that he attempted to file the Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698), there is no evidence on record that Citizenship and Immigration Services (CIS) received a completed application for an adjustment of status. The director therefore terminated the applicant's temporary resident status.

On appeal, the applicant claims that he did not apply for adjustment in a timely fashion because he had not been properly advised of the need to do so. He claims that he approached service officers on a yearly basis for a number of years in an effort to obtain permanent resident status. However, the applicant has not provided evidence to support this claim. Nor has he provided a detailed account of the officers who were approached or the dates of the alleged communications. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant also provides a copy of his I-688, Temporary Resident Card, showing that CIS extended the applicant's temporary resident status, which was to expire in 2001. The AAO acknowledges that CIS erred in extending the applicant's temporary resident status when it was clear that the applicant failed to file for an adjustment of status to that of a permanent resident within the required 43-month statutory period. However, there is no evidence to support the claim that CIS's error was anything more than an isolated incident or that the applicant's failure to file a timely adjustment of status application was the result of further service error.

In fact, the applicant's contention that he was not properly advised when he appeared at a service office 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 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. As the applicant has not overcome the basis for termination of status, the appeal must be dismissed.

Beyond the director's decision, the record shows that the applicant may be ineligible for temporary residence based on the following offenses whose dispositions are unknown:

1. On June 1, 1987, the applicant was arrested for driving while intoxicated.
2. On December 26, 1987, the applicant was arrested for driving while intoxicated.
3. On December 14, 1997, the applicant was arrested for possession of marijuana.

The temporary resident status of an alien who has been convicted of a felony or three or more misdemeanors in the United States may be terminated at any time. 8 C.F.R. § 245a.2(u)(1)(iii). Although the dispositions for these offenses are unknown, the applicant may be ineligible for temporary residence on this basis as well.

Regardless, as previously stated, the applicant has failed to establish that he filed a timely application to adjust his status to that of a permanent resident. This deficiency served as a proper ground for termination of the applicant's temporary resident status and dismissal of the appeal.

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