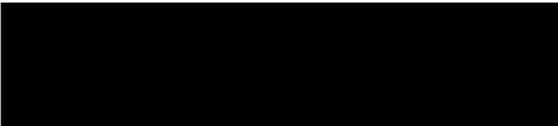




U.S. Citizenship
and Immigration
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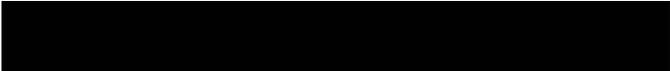
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MAR 22 2007

FILE:  Office: CALIFORNIA SERVICE CENTER Date:
XES 88 151 1062

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, California 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 states that she attempted unsuccessfully to file a Form I-698, Application to Adjust Status from Temporary to Permanent Resident, on several occasions.

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 May 3, 1989. The 43-month eligibility period for filing for adjustment expired on December 3, 1992. There is no indication in the record of proceeding that the applicant ever filed a Form I-698, Application to Adjust Status from Temporary to Permanent Resident. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, the applicant states that she attempted to file a Form I-698 several times, but was always informed that "the processors of the application were working to have my file sent to them at which point they would review it and then contact me."

The applicant has not submitted any independent evidence to corroborate her statements. Immigration and Naturalization Service (INS), now Citizenship and Immigration Services, field offices did undertake efforts to display general information about adjustment of status procedures for amnesty applicants under sections 210 and 245A of the Act. Furthermore, INS and private voluntary organizations widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Moreover, 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 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