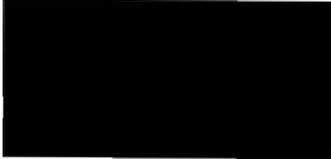


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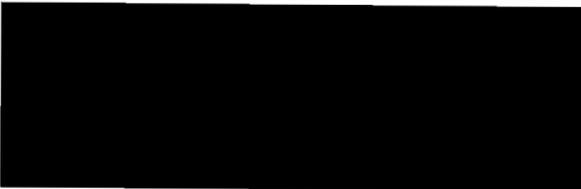
Office: NEBRASKA SERVICE CENTER

Date:

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:



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, Nebraska 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, counsel the applicant states that the applicant was a minor during the 43-month application.

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 28, 1989. The 43-month eligibility period for filing for adjustment expired on October 28, 1992. A review of the record reveals that as of the date of this decision, the applicant has not filed an Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698). The director therefore terminated the applicant's temporary resident status because the applicant had failed to file a Form I-698 adjustment application within the 43-month application period.

On appeal, counsel for the applicant states that the applicant was a minor during the 43-month application period. Counsel asserts that the applicant never received notice from the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services, that she was required to file her Form I-698 within 43 months of the date she was granted temporary resident status.

The record contains a notice dated August 30, 1992, informing the applicant that she was required to file her Form I-698 within 43 months of the date she was granted temporary resident status. There is no indication in the record of proceeding that the notice was returned to INS as undeliverable mail. Therefore, counsel's assertion cannot be accepted.

As to counsel's statement that the applicant was a minor during the 43-month application, it is noted that the applicant was 20 years old when the 43-month application period expired. Her age did not prevent her from seeking information regarding the legalization process from other available sources. If the applicant required information and assistance in pursuing her application, information and assistance were widely available with inquiries to INS, from private nonprofit Qualified Designated Entities, and from private legal assistance resources. Additionally, INS and private voluntary organizations widely publicized the procedures of the legalization program, including the necessity of applying for adjustment to permanent residence within the requisite period.

Counsel'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.