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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042.
Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 21 2006

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.

Robert P. Wiemann, Director
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 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 was the victim of incorrect information put forth by the Immigration and Naturalization Service (INS) regarding the application process. She asserts that the INS employees at the local legalization office continually told her to wait for filing instructions. She points out that she has been a tax-paying resident of the United States for many years, and provides copies of tax returns as evidence.

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 February 2, 1988. The 43-month eligibility period for filing for adjustment expired on September 2, 1991. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was filed on January 14, 2000. 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 had not been advised of the need to do so. In particular, she maintains that she was not properly advised by INS employees at the local office when she asked about her case. The applicant's contention that she was not properly advised when she appeared at the INS office simply cannot be confirmed by a review of the record. INS and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS did send notices to aliens' last known addresses, specifically advising them of the requirement.

It is 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. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. As the applicant has not overcome the grounds for termination of status, the appeal must be dismissed.

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