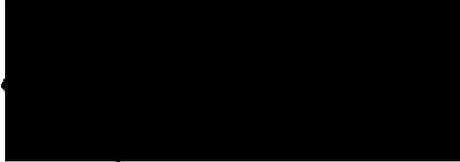




U.S. Citizenship  
and Immigration  
Services

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AUG 16 2005

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

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, 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 he renewed his employment authorization card each year from 1988 to 1999 and was never issued a temporary resident card or advised of the 43-month requirement. He points out that, even if he had been aware of the 43-month requirement in general, he would not have known when the 43-month period began, as he was not advised of the approval of temporary residence until it was too late.

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 April 1, 1992. The 43-month eligibility period for filing for adjustment expired on November 1, 1995. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was filed on February 5, 1999. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

The applicant asserts Immigration And Naturalization Service (INS) employees at his local office did not, when he applied for annual extensions of employment authorization, inform him that he had been granted lawful temporary resident status in 1992. He states they also did not issue him a temporary resident card, and advise him of the 43-month requirement for permanent residence.

This assertion cannot be confirmed or rebutted from a review of the record. It is noted that the applicant has not provided evidence that he was granted annual extensions of employment authorization.

INS and private voluntary organizations widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Approval notices for temporary residence, and letters advising aliens of the 43-month requirement, were sent to the aliens' last known addresses. Furthermore, 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.