

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



LI

FILE:



Office: California Service Center

Date: **SEP 27 2005**

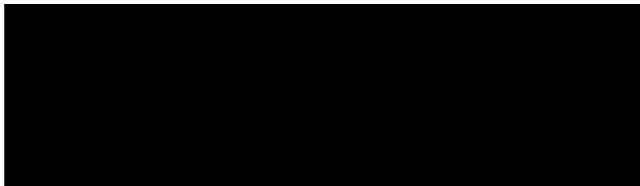
IN RE:

Applicant:



APPLICATION: Application for Temporary Resident Status under 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, 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, counsel stated that the applicant filed a timely application. She provided no specifics, and submitted no supporting documentation. She requested a copy of the record, and a subsequent period of thirty days in which to file a brief. Although her request was complied with over nine years ago, she never responded further.

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 (43) months of the date he/she was granted status as a temporary resident. *See* 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on April 6, 1989. The 43-month eligibility period for filing for adjustment expired on November 6, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was submitted on March 17, 1994. There is no evidence in the record of an earlier filing. The director denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

Notices of approval of temporary residence, and notices advising aliens of the deadline by which to apply for permanent residence, were sent to aliens' last known addresses. Furthermore, the Immigration and Naturalization Service and private organizations widely publicized the need to apply for permanent residence within the 43-month period. Also, 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).

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.