



U.S. Citizenship
and Immigration
Services

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FEB 12 2007

[Redacted]

FILE: [Redacted]
XSO 88 541 2061

Office: CALIFORNIA 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:

[Redacted]

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 he failed to apply for adjustment of status from temporary to permanent resident during the 43-month application period due to health problems.

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 19, 1989. The 43-month eligibility period for filing for adjustment expired on November 18, 1992. The applicant's Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services, until April 4, 2002, almost ten years after the expiration of the 43-month application period. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant states that he failed to file his Form I-698 in a timely manner because has been undergoing medical treatment for several years due to bad blood circulation in the left half of his body. The applicant submits documents relating to the prescription medications he takes for his condition.

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.