



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy**

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FILE:

[REDACTED]
XBK 88 108 8031

Office: VERMONT SERVICE CENTER

Date: MAR 13 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, Eastern 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 was never notified that he had been granted temporary resident status, even though he attempted to report his address changes to the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS).

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 13, 1988. The 43-month eligibility period for filing for adjustment expired on November 12, 1992. The applicant's Form I-698, Application to Adjust Status from Temporary to Permanent Resident, was not received by the Immigration and Naturalization Service (the Service), now Citizenship and Immigration Services (CIS) until July 16, 1993. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, the applicant states that he was never notified as to whether his initial application for temporary resident status had been approved or denied, even though he kept the Service informed of his address changes.

The record contains photocopies of two notices that were mailed to the applicant at his address of record on August 31, 1990 and March 10, 1991, informing him that he had been granted temporary resident status and that he needed to file his Form I-698 prior to the expiration of the 43-month application period. There is no indication in the record of proceedings that the applicant had reported any address changes to the Service from the date of approval of temporary resident status to the dates the notices were issued and mailed to his address of record.

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.

It is noted that the applicant filed a second Form I-698 with CIS on February 14, 2002, under receipt number EAC 02 115 51984. To date, this application has not been adjudicated.

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.