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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **AUG 18 2005**

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 points out that he did not receive numerous notices because the director sent them to an improper address. He asserts that he always tried to comply with whatever instructions he was given.

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 December 2, 1988. The 43-month eligibility period for filing for adjustment expired on July 2, 1992. The applicant did not file an Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698). The director therefore terminated the applicant's temporary resident status.

On appeal, the applicant declares he never took any action that would jeopardize his lawful status. He correctly points out the director sent numerous notices to him at an incorrect address.

The Immigration and Naturalization Service (INS) and private voluntary organizations widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS sent 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).

In this case, an INS employee transposed the applicant's correct address of [REDACTED] and during 2001 and 2002 notices were sent to the wrong address. However, this took place years after the 43-month deadline ended on July 2, 1992. There is no indication that INS sent any notices to the wrong address during the 1988-92 period.

The applicant's statements made on appeal have been considered. There is no indication that INS made any error that affected the applicant's opportunity to apply for adjustment. 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.