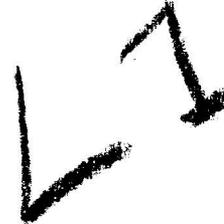




U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



FILE:

XSA-88-0045025

Office: California Service Center

Date: DEC 14 2008

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, 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 she was never advised of any deadline by the Immigration and Naturalization Service (INS) 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 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 August 16, 1993. The 43-month eligibility period for filing for adjustment expired on March 16, 1997. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was first received by INS on April 7, 2004. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant claims that she did not apply for adjustment in a timely fashion because she had not been properly advised of the need to do so. She states that she went to the local INS office yearly to get her employment authorization card renewed, and was not told by an INS employee prior to 1997 that she had been approved for temporary residence and was supposed to have applied for permanent residence.

The applicant's contention that she was not properly advised when she appeared at the INS office simply cannot be confirmed by a review of the record. INS and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS did send notices to aliens' last known addresses, specifically advising them of the requirement. It is noted that the applicant had moved by the time she applied for adjustment to permanent residence, and any prior notices sent to her may have been sent to her past address.

It is further 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).

The applicant's statements made on appeal have been considered. It is not apparent that the applicant was improperly advised by INS. As the applicant has not overcome the basis for termination of status, the appeal must be dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.