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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
XLI 88 250 7094

Office: NEBRASKA SERVICE CENTER

Date: **SEP 28 2006**

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. The file has 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 temporary resident status by the Director, Nebraska Service Center, is now 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 Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, within the 43-month application period as required by section 245A(b)(2)(C) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(b)(2)(C).

On appeal, the applicant asserts that the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) never made him aware that he was required to adjust to permanent resident status within 43 months of the date he was granted temporary residence despite repeated visits to Service offices. The applicant requests that he be allowed to remain in this country because he has resided here for an extended period of time without any criminal record or history of being a public charge.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Act, 8 U.S.C. § 1255a(a)(1), 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 43 months of the date he was granted status as a temporary resident. 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on January 20, 1989. The 43-month eligibility period for filing for adjustment expired on August 20, 1992. The applicant filed the Form I-698 adjustment application with the Service on February 22, 1994. The director therefore denied the untimely Form I-698 adjustment application on March 17, 1994, and subsequently terminated the applicant's temporary resident status.

The applicant asserts that the Service never made him aware that he was required to adjust to permanent resident status within 43 months of the date he was granted temporary residence to do so within 43 months of the date he was granted temporary residence. However, the Service and private voluntary organizations widely publicized the procedures of the amnesty program, including the necessity of applying for permanent residence. If the applicant required assistance in pursuing his application, such assistance was widely available with inquiries to the Service, from private nonprofit Qualified Designated Entities, and from private legal assistance resources. Furthermore, the original eligibility period of 31 months was extended to 43 months to better enable applicants to file timely applications. The burden to duly file the Form I-698 adjustment application in a timely manner remains with the applicant. 8 C.F.R. § 245a.3(d).

The statements on appeal have been considered. Nevertheless, 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.