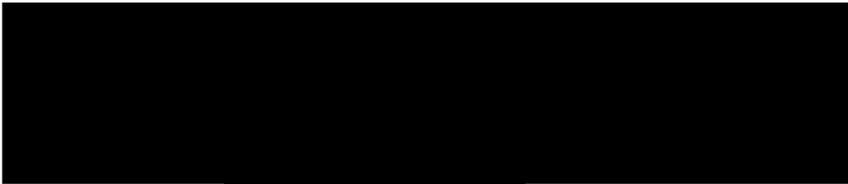




U.S. Citizenship
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FILE: [REDACTED]
XSR 88 158 2389

Office: CALIFORNIA SERVICE CENTER

Date: FEB 12 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.

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 she has moved frequently since 1990 due to financial difficulties and may not have received any correspondence advising her to file her adjustment application within the 43-month application period.

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 September 6, 1988. The 43-month eligibility period for filing for adjustment expired on April 5, 1992. On August 28, 2001, the applicant filed a Form I-90, Application to Replace Permanent Resident Card, with the California Service Center. The service center director denied the application on July 7, 2004, because the applicant had not been granted permanent resident status. On December 29, 2004, more than 12 years after the expiration of the 43-month application period, the applicant filed her Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) with Citizenship and Immigration Services (CIS). The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant states that she has had eight children since she was granted temporary resident status, and her family situation has kept her "extremely occupied." She explains that she has moved frequently since 1990 due to financial difficulties and may not have received any notices from the Immigration and Naturalization Service, now CIS, advising her of the necessity to file her adjustment application within the 43-month application period.

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.

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