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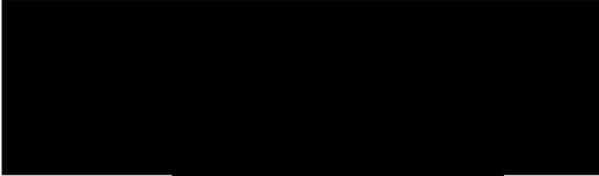
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

SRC-05-257-50392

Office: Texas Service Center

Date:

MAR 09 2007

IN RE:

Applicant:



APPLICATION: Application for Temporary Resident Status under 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 "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's temporary resident status was terminated by the Director, Texas Service Center. The matter is now 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 provides copies of documents that, he asserts, support the premise that he sent in the application before the deadline.

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 (43) months of the date he/she was granted status as a temporary resident. See 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on November 17, 1987. The 43-month eligibility period for filing for adjustment expired on June 17, 1991. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) that is in the record was filed on December 7, 1998, over seven years late. The director denied the untimely Form I-698 application, and subsequently terminated the applicant's temporary resident status.

Notices of approval of temporary residence, and notices advising aliens of the need to apply for permanent residence, were sent by the Immigration and Naturalization Service (INS) to aliens' last known addresses. In this case, the record does contain INS notices dated November 18, 1987, January 22, 1988 and March 30, 1990 that were sent to the applicant's last known address, advising him of the approval of temporary residence and encouraging him to apply for permanent residence. However, the notices were returned to sender as undeliverable. By the time the applicant inquired about his status from his new address, the 43-month period had expired.

As stated above, while the application for permanent residence in the record was filed in 1998, the applicant claims to have submitted an earlier one. He provides a photocopy of a money order for \$80.00 that may have been issued in 1990, although the copy is only partially legible, and a photocopy of a postal receipt for certified mail dated June 18, 1990. He does not provide a photocopy of a 1990 application, or a copy of a receipt showing INS actually received a letter from him. The eighty-dollar fee does relate to applications which were filed within the first 31 months of an alien's 43-month eligibility period. Although these copies might possibly serve to indicate that the applicant attempted to file an application for permanent residence in a timely manner in 1990, there is no evidence the filing was accomplished.

It is noted that INS and private organizations widely publicized the need to apply for permanent residence within the 43-month period. Also, 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).

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.