

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



41

FILE: [REDACTED]
XMA-88-543-5074

Office: Vermont Service Center

Date: MAR 15 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, Vermont 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 reiterates her explanation that she was a minor when she was granted temporary residence. She points out that her father died and the family became homeless due to a fire, which resulted in their receipt of public assistance. She explains that she was advised that the receipt of public assistance could result in the denial of her application and possible deportation, so she did not apply.

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 August 26, 1988. The 43-month eligibility period for filing for adjustment expired on March 26, 1992. On January 13, 1999 the director advised the applicant of his intent to terminate her temporary resident status, as she had not applied for adjustment to permanent residence. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was then filed on February 11, 1999. The director denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

The applicant has documented the facts of the death of her father and the fire. She may have been advised that the receipt of public assistance could possibly lead to a denial of the application, but the application could and should have been filed timely anyway. As the information provided by an applicant in a legalization application is confidential, it could not have led to deportation proceedings. The burden to file the adjustment application in a timely manner remains with the applicant. *See* 8 C.F.R. § 245a.3(d).

Citizenship and Immigration Services is not without sympathy for the applicant. Her statements made on appeal have been considered. Unfortunately, no humanitarian waiver exists concerning the requirement to file a timely application. 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.