

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

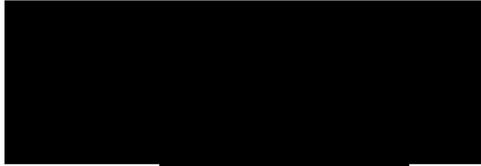
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

41

PUBLIC COPY



FILE: [REDACTED]
XEL 88 503 5069

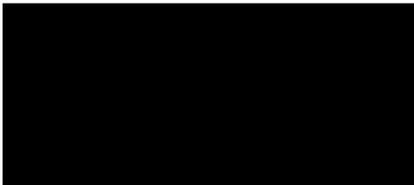
Office: NEBRASKA SERVICE CENTER

Date: MAR 26 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:



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, Nebraska 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, counsel for the applicant states that the applicant is preparing to file a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, as the battered spouse of a United States citizen, based on severe physical and emotional abuse inflicted on the applicant by her United States citizen husband.

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 March 11, 1995. The 43-month eligibility period for filing for adjustment expired on October 11, 1998. The applicant's Form I-698, Application to Adjust Status from Temporary to Permanent Resident, was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services, until January 27, 2003. The director therefore denied the application and terminated the applicant's temporary resident status.

On appeal, counsel for the applicant states that the applicant is preparing to apply for permanent resident status as the battered spouse of a United States citizen.

Counsel's statement on appeal has 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.

The applicant is ineligible for temporary residence for the above stated reasons, with each considered as an independent and alternative basis for denial.

It is noted that the applicant was arrested in El Paso, Texas, on July 9, 1988, and charged with prostitution. The charge was dismissed on October 10, 1989.

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