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

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41

FILE: [REDACTED]
WAC-06-267-50670

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 23 2008**

IN RE: Applicant: [REDACTED]

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. 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 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 respond to the Notice of Intent to Terminate. Specifically, the director found that the applicant's Form I-698 Application to Adjust Status from Temporary to Permanent Resident Status was not filed within 43 months after the approval of her application for temporary resident status. The applicant failed to present sufficient evidence indicating that she had filed to adjust to permanent resident status within 43 months.

On appeal, the applicant stated that she did not know the procedure for filing the I-698. The applicant initially filed Form I-698 on August 11, 2005. On September 13, 1996, Citizenship and Immigration Services (CIS) denied the application. The director noted that the applicant was granted lawful temporary resident status on November 29, 1988.

The status of an applicant lawfully admitted for temporary resident status under section 245A(a)(1) of the Act may be terminated at any time if the applicant fails to file for adjustment of status from temporary to permanent resident on Form I-698 within forty-three months of the date the applicant was granted status as a temporary resident under § 245a.1 of this part. 8 C.F.R. § 245a.2(u)(1)(iv).

Thus, the 43-month eligibility period for filing for adjustment expired on June 28, 1992. On September 13, 2006, CIS issued a notice indicating its intention to terminate the applicant's temporary resident status because the I-698 application was not filed within the 43 month eligibility period. The applicant did not submit evidence that she properly filed Form I-698 within 43 months of establishing temporary residence. Therefore, the director found the applicant had not filed a timely application to adjust from temporary to permanent resident status and terminated the applicant's temporary resident status in the notice dated November 3, 2006.

The applicant's statements made on appeal have been considered. The applicant has presented no evidence that she properly filed Form I-698 during the 43-month eligibility 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.