



U.S. Citizenship
and Immigration
Services

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AUG 13 2009

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
XLA 88 515 8177
[WAC 07 030 52329]

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied by the Director, California Service Center. The director has now issued a decision to terminate the temporary resident status previously granted to the applicant. This decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In her decision, the director states that the applicant was granted lawful temporary residence on May 23, 1991. On July 17, 2006, the applicant filed Form I-698, Application to Adjust Status from Temporary to Permanent Resident. The director noted that the applicant was required to file an application for adjustment of status from temporary to permanent resident no later than December 22, 1994. Therefore, the director denied the application because the application was not filed within the statutory 43-month filing period.

On November 21, 2006, the director issued a Notice of Intent to Terminate (NOIT) and granted the applicant 30 days in which to submit evidence in rebuttal to the proposed termination of his temporary resident status. The director did not receive a response to the NOIT. Therefore, the director determined that the applicant was not eligible for status as a temporary resident pursuant to Section 245A of the Act and terminated the applicant's status.

Section 245A(b)(2) of the Act states in pertinent part that the Act provides for termination of temporary residence status granted to an alien if it appears to the Attorney General, now Secretary Department of Homeland Security, that the alien was in fact not eligible for such status, or the alien commits an act that makes the alien inadmissible to the United States as an immigrant, or the alien is convicted of any felony or three or more misdemeanors committed in the United States; or at the end of the 43rd month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

On appeal, the applicant states that he called the Immigration office and explained that his wife is a United States citizen. He states he was advised that he should continue with his original application. The applicant states that he made a grave error in allowing this matter to get this far and is sorry.

The regulation at 8 C.F.R. § 103.3(a)(3)(iv)(B) provides that any appeal filed solely on the basis of a denial for failure to file the application for adjustment of status under Section 245A in a timely manner shall be summarily dismissed. The applicant on appeal provided no new evidence or explanation to overcome the reasons for denial of his application.

The appeal of the termination was filed solely on the basis of the director's denial for the applicant's failure to timely file the Form I-698 application. The appeal must therefore be summarily dismissed.

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