

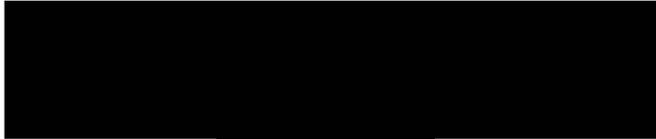
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U.S. Citizenship
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FILE: [Redacted]
XPO-88-160-0021

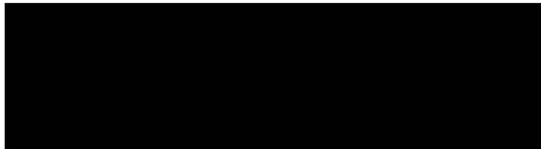
Office: LOS ANGELES

Date: **MAR 04 2009**

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. 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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Field Office Director, Los Angeles, is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status because she failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.

On appeal, the applicant, through counsel, asserts that she failed to timely file her application for permanent residence because the Immigration and Naturalization Service (INS) refused to assist her with locating her alien number.

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 burden to file the adjustment application in a timely manner remains with the applicant. *See* 8 C.F.R. § 245a.3(d).

The record reflects that the applicant was granted temporary resident status on February 2, 1989. The 43-month eligibility period for filing for adjustment expired on September 1, 1992. The Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, was first received by INS on June 24, 2008. The director therefore rejected the untimely Form I-698 application, and terminated the applicant's temporary resident status.

On appeal, the applicant asserts that she was 18 years old when she was granted her employment authorization card, which she then lost. The applicant states that she made numerous attempts to replace the card and file a Form I-698, Application to Adjust Status from Temporary to Permanent Resident, at INS offices in Pomona and East Los Angeles in 1989 and 1990. The applicant states that when she visited the INS offices, she was informed that no one could assist her because she did not have her file number.

The applicant's assertions fail to provide any concrete and reliable information. The applicant has not indicated when she lost her employment authorization document. Nor has she provided any details on her repeated attempts to seek assistance at the INS offices in Pomona and Los Angeles. Without specific detail, the applicant's assertions cannot be given significant weight.

The AAO notes that on February 3, 1992, INS published in the Federal Register the final rule regarding the one-year extension of the deadline for filing applications for adjustment from temporary to permanent residence for legalized aliens. INS responded to the comments it received pursuant to the publication of the interim rule. Three of the comments were addressed at the \$40.00 late filing fee on applications filed on or after July 9, 1991. 57 Fed. Reg. 3925 (February 3, 1992). INS provided the following response to these comments:

The forty dollar late filing fee was based on estimated additional administrative costs, which include, but are not limited to, mailers to each eligible applicant who has not yet filed an application for adjustment from temporary to permanent residence; cost of changing the message on the 800 information number; revision of Form M-306; staff time for responding to status inquiries, re-opening and re-adjudicating denials, etc.

57 Fed. Reg. 3925-3926 (February 3, 1992).

This response illustrates the comprehensive outreach efforts in the legalization program. INS placed resources towards responding to status inquiries, and notifying eligible legalization applicants of the deadline to file for adjustment to permanent resident status. INS and private voluntary organizations widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS sent notices to aliens' last known addresses, specifically advising them of the requirement.

The applicant's assertion that she could not receive any assistance with filing her application for adjustment to permanent residence is inconsistent with the aforementioned outreach efforts. Furthermore, her assertion lacks specific detail and is not confirmed by a review of the record. The record shows that on April 4, 1989, the applicant filed with INS a Form I-697, Change of Address Card for Legalization. The applicant provided on her change of address card her alien file number. Therefore, as of April 4, 1989, the applicant was able to obtain a change of address card at her local INS office and she was aware of her alien file number.

The applicant's statements made on appeal have been considered. It is not apparent that the applicant's failure to timely file her application to adjust to permanent resident status was due to INS error. 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.