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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
XEM 88-008-7116

Office: LOS ANGELES

Date: **NOV 02 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:

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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for temporary residence was terminated by the Director, Los Angeles. This decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In his decision, the director states that the applicant was granted lawful temporary residence on June 23, 1989. On February 13, 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 January 22, 1993. The director denied the Form I-698 application because the application was not filed within the statutory 43-month filing period.

On January 14, 2008, 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 applicant did not respond to the NOIT, and therefore, the applicant's temporary residence was terminated on February 25, 2008.

On appeal, the applicant claims that he went to [REDACTED] several times to check on the status of his case and he was turned away and told to wait. The applicant states that if he had not been turned away or advised to wait, he would have timely filed his application for permanent residence. The record contains no evidence of the applicant's attempts to file for permanent residence prior to February 13, 2006.

The applicant was granted temporary resident status on June 23, 1989 under section 245A of the Immigration and Nationality (Act), as amended, 8 U.S.C. § 1255a. The applicant was required to file an application to adjust status from temporary to permanent resident within forty-three (43) months of receiving his temporary resident status. *See* 8 C.F.R. § 245a.3(b)(1). Pursuant to section 245A(b)(2)(C) of the Act, 8 U.S.C. § 1255a(b)(2)(C), a failure to file an application for adjustment to permanent residence within this statutory filing period will result in the termination of the applicant's temporary residence. The applicant filed his application to adjust status from temporary to permanent resident on February 13, 2006, which is outside the statutory filing period.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed solely on the basis of a denial for failure to file the application for adjustment of status under section 210 or 245A in a timely manner, will be summarily dismissed.

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