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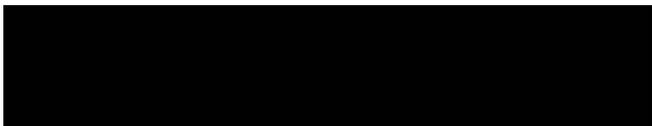
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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JAN 25 2010

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
XTO 88 514 2221

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident 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. 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 termination of the applicant's temporary resident status by the Director, California Service Center, is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant was granted temporary resident status on October 28, 1988 under section 245A of the Immigration and Nationality Act (Act), as amended, 8 U.S.C. § 1255a. The applicant filed a Form I-698, Application to Adjust Status from Temporary to Permanent Resident, on December 21, 1993. On March 20, 1995, the director mailed to the applicant, at the applicant's correct mailing address, a Notice Of Intent To Terminate (NOIT) the applicant's temporary resident status because the applicant failed to timely file an application for adjustment of status from temporary to permanent status. On March 20, 1996, the director terminated the applicant's temporary resident status because the applicant did not submit sufficient evidence to overcome the grounds set forth for termination in the NOIT. The applicant then filed a timely appeal.

On appeal, the applicant states that in 1991 a notice was sent to him concerning adjustment procedures, but the notice was lost because the mail to his post office box was erroneously held. The applicant provided no additional details about his mail being held or any difficulties he may have had in that regard. The applicant states that when he finally received the notice he "had a situation with the Redondo Beach police."¹ The applicant states that the NOIT was sent to an incorrect address after the applicant notified the United States Citizenship and Immigration Services (USCIS) of a change of address. The applicant asks that his appeal be granted and that he be allowed to adjust to permanent resident status.

The record of proceeding shows that the applicant notified USCIS of a change of address on May 10, 1994. At that time, the applicant listed his address as [REDACTED]. The NOIT was mailed to this address on March 20, 1995. The director's decision terminating the applicant's temporary resident status was mailed to the same address on March 20, 1996. USCIS records do not indicate that the applicant filed a change of address after May 10, 1994 and before the director's decision to terminate on March 20, 1996.

The applicant was granted temporary resident status on October 28, 1988 under section 245A of the Immigration and Nationality Act (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

¹ The applicant was arrested by the Redondo Beach Police Department on July 25, 1992. While the record of proceeding does not have final court dispositions for the charges filed against the applicant, the record does indicate that the applicant received a two year prison sentence, and was imprisoned from September 9, 1992 until February 28, 1993.

adjust status from temporary to permanent resident on December 21, 1993, 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.