

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



L1

DATE: JUL 12 2012

Office: TEXAS SERVICE CENTER

FILE: [REDACTED]

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Texas Service Center Director terminated the applicant's temporary resident status and the matter is now 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 file the application for adjustment of status from temporary to permanent residence within the 43-month application period. The director denied the Form I-698 application to adjustment to permanent resident status on March 5, 2012.

On appeal, through counsel, the applicant indicates that he was not notified of the need to apply for adjustment to permanent resident status within the required time period.

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 applicant was granted temporary resident status on February 20, 1988. The 43-month eligibility period for filing for adjustment expired on September 20, 1991. The Form I-698 was not received by United States Citizenship and Immigration Services (USCIS) until August 5, 2011, nearly 20 years later.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 81 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO finds that the applicant was issued a Notice of Intent to Terminate (NOIT) on November 23, 2011 which indicated that his temporary resident status would be terminated because he failed to file the Form I-698 within the required 43 month period. The applicant responded to the NOIT indicating he was unaware of the 43 month filing period.

The legacy Immigration and Naturalization Service (INS) and private voluntary organizations widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, the original eligibility period of 31 months was extended to 43 months to better enable applicants to file timely applications. The burden to file the adjustment application in a timely manner remains with the applicant. *See* 8 C.F.R. § 245a.3(d).

Therefore, the AAO agrees with the director that the applicant's temporary resident shall be terminated because of the applicant's failure to file his application for adjustment from temporary to permanent resident status within the required 43 months.

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