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U.S. Citizenship
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FILE:



Office: California Service Center

Date: **SEP 28** 2005

IN RE:

Applicant:



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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
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 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.

On appeal, the applicant states that she submitted all of the documentation requested by employees of the Immigration and Naturalization Service (INS).

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 May 2, 1989. The 43-month eligibility period for filing for adjustment expired on December 2, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was received by INS on February 24, 2000. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

On appeal, the applicant claims that she filed all of the documents requested. She states that she submitted Form I-690 around June 1992 as she was told to do. Form I-690 is a waiver application filed by legalization applicants. There is no indication that a Form I-690 would have been needed in this case. The applicant may be referring Form I-90, which is filed by aliens who have already been granted permanent residence status, and are applying for a card that signifies such status. However, there is no indication that Form I-90 or any other form was filed in the relevant 1989-92 period.

The applicant's contention that she was not properly advised when she appeared at the INS office simply cannot be confirmed by a review of the record. INS and private voluntary organizations did widely publicize the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, INS did send notices to aliens' last known addresses, specifically advising them of the requirement. It is noted that the applicant had moved by the time she applied for adjustment to permanent residence, and any prior notices sent to her may have been sent to the original address, which would have been the only address INS had for her.

It is further noted that 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).

The applicant's statements made on appeal have been considered. It is not apparent that the applicant was improperly advised by INS. As the applicant has not overcome the grounds for termination of status, the appeal must be dismissed.

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