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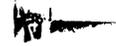


U.S. Citizenship
and Immigration
Services

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AUG 16 2005

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that she had resided continuously in the United States from *prior to January 1, 1982* through the date the application was filed.

On appeal, the applicant did not make a statement, but furnished a declaration from her grandmother, stating that she cared for the applicant from January 1982 to September 1982.

An applicant for temporary resident status must establish that he or she entered the United States before January 1, 1982, and continuously resided in the United States in an unlawful status since such date and through the date the application is filed. *See* Section 245A(a)(2)(A) of the Act, 8 U.S.C. § 1255a(a)(2)(A).

An applicant for temporary resident status under section 245A of the Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.2(d)(5). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. 8 C.F.R. § 245a.2(d)(6).

Sufficient evidence of the applicant's residence in the United States, namely inoculation and school records dating from September 1982 and covering the following years, was submitted with the application for temporary residence. No evidence was provided for the period prior to September 1982, even though the applicant claimed on her application to have lived in the United States since September 1981. On June 20, 1990, the director issued a notice of intent to deny, instructing the applicant to furnish evidence for the period prior to September 1982. The applicant responded by submitting copies of the evidence that had already been furnished. The director then denied the application.

On appeal, the applicant furnishes a declaration from her grandmother, who states the applicant was under her care from January 1982 to September 1982. She states the applicant did not go to school during that period because she, the grandmother, did not have the applicant's birth certificate. It is noted that the grandmother does not state *when* in January 1982 she began caring for the applicant, and does not even state that they were in the United States, although that is implied.. She also does not state that the applicant entered the United States *prior* to January 1982.

This applicant has not submitted any contemporaneous documentation, or any evidence, which establishes her presence in the United States prior to January 1982. As stated in 8 C.F.R. § 245a.2(d)(6), an applicant's own testimony is insufficient. No one else has testified that the applicant entered the United States and commenced residing before January 1982. Given that, it is concluded that the applicant has failed to establish continuous residence for the entire required period.

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

