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U.S. Citizenship
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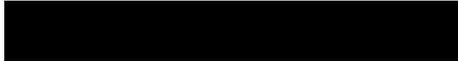


Office: CALIFORNIA SERVICE CENTER

Date: AUG 18 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.

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 (AAO) on appeal. The matter will be remanded for further consideration and action.

The director denied the application only because of the failure of the applicant to file a waiver application. On appeal, the applicant stated that she never received the notice telling her to file the waiver application.

The applicant's appeal was accompanied by a copy of the waiver application, which was dated September 24, 1992, one day earlier than the appeal. It is possible that the applicant mailed the appeal and the waiver application separately to the director. The record contains a notice from the director dated October 1, 1992, advising the applicant that her waiver application and fee were being returned to her because she needed to file an appeal before the waiver application could be accepted. However, the appeal was received by the director on September 28, 1992, and so the reason given for returning the waiver application was not valid. It is noted that the director could and should have accepted the waiver application, even if it was not known that the appeal had been filed.

Later, the applicant wrote to the AAO and explained that she was advised to hold the waiver application until she received further instructions from the director. She further explained that she was then urged to send in the waiver application. Her letter to the AAO, dated May 6, 2000, is accompanied in the record by a copy of the waiver application and a copy of a money order dated the same day, made out to Immigration and Naturalization Service. It is possible that the actual waiver application and money order were then sent to the director from the AAO for proper filing. However, no fee-registered waiver application is in the record.

The applicant has attempted to overcome the single deficiency stated by the director in the denial notice. The director shall write the applicant and request that she file a waiver application. Once it is received, the director shall adjudicate it, and complete the adjudication of this application for temporary residence.

Accordingly, the case will be remanded for the purpose of a new decision addressing the above.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.