

PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



U.S. Citizenship
and Immigration
Services

LI



FILE:



Office: California Service Center

Date: **SEP 27 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 Regional Processing Facility, 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's mother states that the rest of the family members had been approved. She also indicates that she did submit all the necessary documents, including school records.

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).

The applicant was interviewed by an officer of the Immigration and Naturalization Service on December 18, 1987, at the time of the filing of her application. The officer's notes indicate he recommended that the application be denied, as the applicant had not provided evidence of residence in the United States. On May 2, 1988, the director sent a notice to the applicant that advised her to provide evidence of residence. She failed to do so, and the director denied the application on July 3, 1990.

On appeal, the applicant furnishes photocopies of immunization records in an effort to establish that she resided continuously in the United States from prior to January 1, 1982. The records reflect that she was inoculated in 1981 and 1984 in Los Angeles. No other evidence was provided.

The applicant was born on January 11, 1979. She claims to have entered the United States in 1981. Approximately three years later, around 1984, a person of her age would have normally entered school. Yet, there are no school records in this record of proceeding, although the applicant's mother claims to have sent them. Such records could best demonstrate continuous residence for someone of the applicant's age. It is noted that, if her mother believed the records were lost, she likely could have sent in copies, but she has not done so. The record is bereft of *any* evidence relating to the years 1982, 1983, and 1985-87. In light of the fact that the applicant claims to have continuously resided in the United States, this inability to produce evidence of residence relating to those years raises serious questions regarding the credibility of the claim.

As stated above, the inference to be drawn from the documentation provided shall depend on the extent of the documentation. The minimal evidence furnished cannot be considered extensive. Additionally, as

stated in 8 C.F.R. § 245a.2(d)(6), an applicant's own testimony is insufficient. No affidavits have been provided attesting to the applicant's residence.

In summary, the applicant has provided very minimal evidence of residence that only relates to two of the seven relevant years of required residence. It is concluded that the applicant has failed to establish that she continuously resided in the United States for the required period.

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