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U.S. Citizenship
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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.

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

Robert P. Wiemann, Director
Administrative Appeals Office

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

The directors denied the application because the applicant failed to report for scheduled interviews, and failed to submit required documentation.

On appeal, the applicant indicates that he never received any appointment letters. He explains that he inquired about his case numerous times to no avail.

An applicant for temporary resident status must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

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. 8 C.F.R. § 245a.2(d)(5).

An applicant for temporary resident status must present documents establishing proof of identity, proof of residence, and proof of financial responsibility, as well as photographs, a completed Fingerprint Card (Form FD-258), and a fully completed Medical Examination for Aliens Seeking Adjustment of Status (Form I-693). 8 C.F.R. § 245a.2(d). In addition, the applicant must appear for a personal interview at the legalization office as scheduled. 8 C.F.R. § 245a.2(e)(1). The interview may be waived only for a child under the age of 14, or when it would be impractical because of the health or advanced age of the applicant. 8 C.F.R. § 245a.2(j).

After the application was denied by the district director, the applicant provided a new street address on appeal. The district director then set up a scheduled interview for July 11, 1990, and mailed the appointment notice to the applicant's post office box that had originally been shown as his mailing address. The applicant did not report for the interview, and the director then set up another scheduled interview for July 26, 1990, and sent the appointment notice to the new street address provided by the applicant. However, the applicant failed to report for this scheduled interview as well. Additionally, the applicant has not provided any of the supporting documentation described above. Since these requirements may not be waived, the applicant is ineligible for temporary resident status.

An alien applying for adjustment of status has the burden of proving by a preponderance of evidence that he or she has continuously resided in an unlawful status in the United States from prior to January 1, 1982 through the date of filing, is admissible to the United States under the provisions of section 245A of the Act, 8 U.S.C. § 1255a, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.2(d)(5). Due to his failure to report for the mandatory interview, and submit required documents, the applicant has not met this burden.

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