



U.S. Citizenship
and Immigration
Services

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DEC 19 2006

FILE:

XFE-88-503-1197

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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Western Service Center because the director determined that the applicant had failed to establish continuous unlawful residence during the requisite period. The applicant overcame the basis of denial on appeal; however, the matter was remanded by the Chief, Legalization Appeals Unit because the applicant was possibly ineligible for another reason, i.e., she was likely to become a public charge. The Director, California Service Center has now denied the application for that reason, and the matter is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

In the latest decision the director determined that the applicant is inadmissible to the United States under section 212(a)(4)(A) of the Act, 8 U.S.C. § 1182(a)(4)(A). That section states that any alien who is likely at any time to become a public charge is inadmissible. The director cited the applicant's receipt of funds from Aid to Families with Dependent Children, and from Social Security, and a lack of income from any other source. The applicant did not respond to either the director's notice of intent to deny or the denial notice. There is no evidence the notices were returned to sender.

Although Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual is not authorized under 8 C.F.R. § 292.1(a) to represent applicants and petitioners in immigration proceedings. Therefore, this decision will be sent to the applicant only.

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). (emphasis added) 8 C.F.R. § 245a.2(d).

The applicant did not provide evidence of financial responsibility when she filed this application on May 4, 1988, when she was interviewed concerning this application on June 1, 1989, and when she was sent a notice of intent to deny on August 15, 1989. On the application she stated that she was a housewife from 1981 to 1988, and that since 1982 she received Aid to Families with Dependent Children (AFDC) for three of her children. There is no evidence in the record that she ever worked for pay. In 1994, on appeal, she provided evidence of receipt of Social Security survivor benefits by her daughter Sonia amounting to \$301 monthly. The applicant also provided a copy of a Grant Deed, showing a plot of land was granted to her in 1985. She has not augmented the record with evidence of any other income or support. Also, it is not clear that her daughter Sonia, in whose name the Social Security survivor benefits were shown, would still be eligible for survivor benefits, as she is now 28 years old. Thus, there is no evidence that the applicant has any income,

even from funds once earmarked for her children. It cannot be concluded that she has established financial responsibility. Therefore, the director's determination that the applicant is likely to become a public charge will not be disturbed.

It is noted that, in the notice of intent to deny, the director explained that the applicant could file a waiver application concerning the public charge inadmissibility. She has not filed such application.

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 her failure to demonstrate financial responsibility, the applicant has not established admissibility.

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