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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [REDACTED]
XST-88-500-3019

Office: CALIFORNIA SERVICE CENTER

Date: DEC 20 2006

IN RE: Applicant: [REDACTED]

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. The matter was remanded, and the application was then denied by the Director, California Service Center. It is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The application was originally denied because the applicant had failed to report for the required interview. The matter was remanded, and the applicant was interviewed. The application was then denied because the applicant failed to establish entry into the United States prior to January 1, 1982 and continuous residence since such date. The applicant has not responded to the second denial decision.

An applicant for temporary residence 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 Act, 8 U.S.C. 1255a(a)(2).

A sworn statement was taken from the applicant at his interview on October 6, 2003. The applicant stated that 1982 was the first year that he came to the United States. He also explained that his first child was born in June of 1982 in Mexico, and that he was not in the United States before she was born.

The applicant is not claiming to have resided in the United States since January 1, 1982. As he has not demonstrated eligibility for the benefit sought, the appeal must be dismissed.

It is noted that the applicant was arrested for Abuse/Endanger/Cruelty Child on June 2, 1998 at Madera, California. The disposition of this charge is unknown. The possibility exists that the applicant is ineligible for temporary residence on this basis as well.

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