



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XPO 88 173 4025

Office: CALIFORNIA SERVICE CENTER

Date: FEB 26 2007

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, terminated the applicant's temporary resident status and the matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status pursuant to section 245A(b)(2)(A) of the Act because the applicant: 1) did not submit a Medical Examination Form I-693; 2) did not submit a Form I-134, Affidavit of Support, or evidence that he was employed or self-supporting; and 3) did not establish that he resided continuously in the United States since before January 1, 1982 and through the date his application was filed.

On appeal, the applicant submits evidence that overcomes the first two grounds for denial. However, the applicant's statements and the evidence submitted on appeal fail to establish his continuous residence in the United States during the requisite period.

The director determined that the applicant failed to establish continuous residence in the United States for two reasons. First, the applicant submitted insufficient evidence of his continuous residence in the United States from prior to January 1, 1982 through May 4, 1988, the date his application was filed. Second, the applicant failed to establish that his return to the United States after an absence of over 45 days in 1987 was due to emergent reasons.

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)(A) of the Act, 8 U.S.C. § 1255a(a)(2)(A).

On the Form I-687, Application for Status as a Temporary Resident, the applicant stated that he entered the United States without a visa in November 1979. The record contains the following evidence of the applicant's residence in the United States since that date and through May 4, 1988, the date his application was filed:

- The March 15, 1989 letter of [REDACTED] who stated that he had employed the applicant from December 1987 to the date of his letter as a handyman at his restaurant; and
- A copy of the applicant's passport issued on December 23, 1985 by the Mexican Consulate in New York City.

The letter from [REDACTED] lacks pertinent details that are required of letters from employers by the regulation at 8 C.F.R. § 245a.2(d)(3)(i). Even if [REDACTED] letter complied with the regulation, it would be insufficient to establish the applicant's continuous residence from prior to January 1, 1982 to May 4, 1988 because [REDACTED] only attests to the applicant's employment from December 1987 to March 15, 1989. On his Form I-687, the applicant stated that he also worked at a factory as a machine operator from November 1979 to 1987, but he submitted no

evidence of that employment. The copy of the applicant's passport indicates that he was present in the United States in 1985, but the document is insufficient to establish his continuous residence throughout the requisite period. The petitioner submitted no other evidence of his continuous residence of the types listed in the regulation at 8 C.F.R. § 245a.2(d)(3) and the director's Notice of Intent to Terminate. Accordingly, the applicant has failed to establish that he resided continuously in the United States, as required by section 245A(a)(2)(A) of the Act.

The applicant has also failed to establish his continuous residence during the requisite time period because he was absent from the United States from August to December 1987. The regulation at 8 C.F.R. § 245a.1(c) prescribes, in pertinent part, that an alien shall be regarded as having resided continuously in the United States if, at the time of filing of the application for temporary resident status, the alien has had no single absence from the United States that exceeded 45 days between January 1, 1982 and through the date the application is filed, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed. The term "emergent reasons" means "coming unexpectedly into being." *Matter of C-*, 19 I&N Dec. 808 (Comm. 1988).

On his Form I-687, the applicant stated that the purpose of his trip was to visit his sick mother in Mexico. In a letter dated April 11, 1992, the applicant explains, "I had to leave it [sic] this country because my mother was very ill and wait until she had get [sic] better to come back." The applicant provides no further explanation or relevant evidence. The applicant's statement indicates that he intended to remain in Mexico for an indefinite period of time until his mother got better. The applicant does not state or provide evidence that, for example, he originally planned to return to the United States within 45 days, but that his mother's condition unexpectedly worsened or other unanticipated events prevented his timely return. In the absence of evidence that the applicant intended to return within 45 days, we cannot conclude that an emergent reason delayed the applicant's return to the United States beyond the 45-day period. Accordingly, the applicant's absence broke his continuous residence in the United States, as required by section 245A(a)(2)(A) of the Act.

The applicant submitted insufficient evidence to establish his continuous residence in the United States during the requisite period and failed to demonstrate that his return to the United States after an absence of over three months during the requisite period was due to emergent reasons. Accordingly, the petitioner is ineligible for temporary residence status and his status was properly terminated pursuant to section 245A(b)(2)(A) of the Act.

ORDER: The appeal is dismissed.