



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
XSD 88 179 1050

Office: CALIFORNIA SERVICE CENTER

Date: JAN 18 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The director initially denied the application on November 12, 1991, because the applicant failed to report for two scheduled interviews.

On appeal from the initial denial decision, the applicant stated that she failed to appear for her first scheduled interview due to a shortage of funds. The applicant further stated that she failed to appear for her second scheduled interview because she had moved to a new address and never received the interview notice.

The service center director reopened the case on February 13, 1992, and provided the applicant with three additional opportunities to be interviewed. The applicant failed to appear for any of her interview appointments as scheduled. The director, therefore, denied the application again on September 20, 2004, because the applicant failed to appear for the required legalization interview. The director also denied the application because the applicant failed to provide a complete application with all required supporting documentation. The director informed the applicant that her appeal was still in effect and granted the applicant 30 days, until October 20, 2004, to submit additional evidence to supplement her appeal.

The applicant did not respond to the Notice of Decision until June 1, 2005, almost eight months after the deadline specified in the Notice of Decision. The applicant, in response, claimed that she failed to appear for her 1992 interviews because she had moved and didn't receive the interview notices.

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).

The required interview was originally scheduled for October 11, 1988. The applicant failed to appear, and the interview was rescheduled for January 23, 1989. The applicant once again failed to appear for her interview as scheduled. The director, therefore, denied the application.

Subsequent to the appeal, the matter was reopened, and the applicant was scheduled for interviews on October 9, 1992, November 16, 1992, and December 23, 1992. The interview notices were mailed to the applicant at her most current address, but the applicant did not report for any of these scheduled interviews. The director, therefore, denied the application again on September 20, 2004.

The applicant, in response to the Notice of Decision, explains that she failed to appear for her interview appointments because she was going through a difficult time in her marriage and had moved to a different address. The applicant states that she moved from her former address, "[REDACTED]" to a different address, "[REDACTED]". She further states that she subsequently moved to another address, "[REDACTED]" in April 1991. She states, "I suspect that because of recent postman Delivery problems my mail has been delivered to another household with the same number address except [the] wrong street."

The 1992 interview notices were mailed to the applicant at her address of record, "[REDACTED]" but she failed to appear for her interview appointments as scheduled. There is no indication in the record that the applicant ever reported the Whittier, California, address to Citizenship and Immigration Services. Therefore, the applicant's statements cannot be accepted. The applicant has failed to appear for her interview as required. Furthermore, the applicant has failed to submit proof of identity, proof of residence, and proof of financial responsibility, two photographs, a completed Fingerprint Card (Form FD-258), and a fully completed Medical Examination for Aliens Seeking Adjustment of Status (Form I-693). 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). The applicant has not met this burden.

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