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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: APR 23 2004

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. The file has been returned to the service center that processed your case. If your appeal was sustained, or if the matter 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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The initial termination of temporary resident status by the Director, Western Service Center, was withdrawn and reopened by the Director, California Service Center. The subsequent termination of temporary resident status by the California Service Center Director is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The directors concluded that the applicant's fraudulently obtained entry into the United States as a B-2 visitor on February 9, 1987, rendered her inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA). The applicant did not file a Form I-690, Application for Waiver of Grounds of Inadmissibility. Both directors determined that the applicant was an inadmissible alien ineligible for temporary residence under section 245A of the INA, and, therefore terminated the applicant's temporary resident status pursuant to 8 C.F.R. 245a.2(u)(1)(i) and (ii).

On appeal from the initial termination, the applicant indicated that it was her wish to remain in this country and gain lawful permanent residence. The applicant further indicated that she was a hard working individual and it was her belief that she was eligible for such permanent residence.

The record shows that subsequent to the reopening of the case, a new notice of intent to terminate was issued to the applicant at her address of record on December 23, 2000. This notice informed the applicant that she was inadmissible because of her prior fraudulent entry and that in order to overcome this ground of inadmissibility, she must submit the Form I-690 waiver application. The record reflects that the applicant failed to respond to this notice. As the applicant had failed to submit the waiver application she remained inadmissible and her temporary residence was terminated again on September 7, 2001. The record further shows that the notice of termination was mailed to the applicant at her most current address of record and this notice was subsequently returned as undeliverable mail by the United States Postal Service. As of the date of this decision, the applicant has failed to submit any additional material to supplement her appeal. Therefore, the record shall be considered complete.

Applicants for temporary resident status must be admissible to the United States. Section 245A(a)(4)(A) of the INA.

The record reflects that the applicant filed the Form I-687, Application for Status as a Temporary Resident Status under section 245A of the INA on or about May 4, 1988. The application was approved in error on June 11, 1989. The applicant filed a Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident on July 15, 1991.

Section 212(a)(6)(C)(i) of the INA states "Any alien who by fraud or willful misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is inadmissible."

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the INA may be terminated at any time if (1) it is determined that the alien was ineligible for temporary residence under section 245A of the INA; (2) the alien commits an act which renders him or her inadmissible as an immigrant, unless a waiver is secured pursuant to 8 C.F.R. § 245a.2(k)(2); or, (3) the alien is convicted of any felony, or three or more misdemeanors. 8 C.F.R. § 245a.2(u).

Upon review of the record, the director determined that the applicant had fraudulently procured a visa for her entry into the United States as a B-2 visitor on February 9, 1987. The director reached this conclusion because the applicant failed to disclose that she was returning to a prior unlawful residence in the United States. The director therefore determined that the applicant was inadmissible under section 212(a)(6)(C)(i) of the INA. Pursuant to section 245A(d)(2)(B) of the INA, such inadmissibility is waivable.

The applicant has been explicitly informed of her inadmissibility and the need to submit a Form I-690 waiver application in order to overcome such inadmissibility. Section 245A(a)(4)(A) of the INA requires an alien to establish that he or she is admissible as an immigrant to the United States. The record shows that the applicant has failed to submit the Form I-690 waiver application despite ample opportunity to do so.

The applicant fraudulently procured a visa for her entry into the United States as a B-2 visitor on February 9, 1987. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the INA, and such inadmissibility has not been waived. Consequently, the applicant is ineligible for temporary resident status under section 245A of the INA.

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