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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 2005

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

PUBLIC COPY

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, Director
Administrative Appeals Office

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

The director denied the application because the applicant neither demonstrated that his authorized stay had expired as of January 1, 1982 or that he was otherwise in an unlawful status which was known to the government as of January 1, 1982.

On appeal, the applicant stated that he violated his status by dropping all classes at his authorized school prior to January 1, 1982. He also pointed out that he worked without authorization in the first five months of 1982. He now furnishes a printout from the Social Security Administration, showing his FICA earnings from 1981 through 2003.

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. In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, such alien must establish that the period of authorized stay as a nonimmigrant expired before such date through the passage of time or that the alien's unlawful status was known to the Government as of such date. Section 245A(a)(2) of the Act, 8 U.S.C. 1255a(a)(2).

The word "Government" means the United States Government. An alien who claims his unlawful status was known to the Government as of January 1, 1982, must establish that prior to January 1, 1982, documents existed in one or more government agencies so, when such documentation is taken as a whole, it would warrant a finding that the alien's status in the United States was unlawful. *Matter of P-*, 19 I&N Dec. 823 (Comm. 1988).

The applicant was admitted to the United States on July 20, 1980 as a student, with stay authorized to July 19, 1981. His authorized stay was extended to July 19, 1984. The applicant's authorized stay had not expired by January 1, 1982. Therefore, we must determine whether he was nevertheless in an unlawful status which was known to the Government as of that date.

The applicant has furnished proof that he was employed by [redacted] Company from January 14, 1982 through May 17, 1982. Although this employment was unauthorized, it commenced after January 1, 1982 and has no bearing on his status *as of January 1, 1982.*

On his temporary residence application, filed in 1987, the applicant claimed to have been employed by "Promotion Seal Beach", or to have worked in the field of promotion in Seal Beach, from February 1981 to September 1981. The applicant indicated on the application that the only social security number he had used from 1981 through 1987 was [redacted]. He has now provided a July 2, 2004 printout from the Social Security Administration (SSA), bearing that same social security number and his name, showing that he earned $1337 in 1981. A review of the applicant's Form I-94, Arrival/Departure Record, reveals that he was not authorized by the Immigration and Naturalization Service (INS) to engage in employment in 1981. Thus, INS was aware that he was not authorized to work, and SSA had knowledge that he was working. Pursuant

to *Matter of P--, supra*, the combined knowledge of the agencies as of January 1, 1982 was that he was in an unlawful status.

Accordingly, the applicant's appeal will be sustained. The director shall continue the adjudication of the application for temporary resident status. If it is granted, the director shall advise the applicant of the procedure and the deadline for applying for permanent residence

ORDER: The appeal is sustained.