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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



XID 88 173 3106

Office: CALIFORNIA SERVICE CENTER

Date: JAN 23 2007

IN RE:

Applicant:



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 "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Western Regional Processing Facility. An appeal was filed, and the application was then reopened and denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The application was initially denied because the applicant had failed to report for two scheduled interviews.

On May 15, 1990, the applicant filed an appeal from the denial decision. On appeal, the applicant asserted that the applicant never received any interview notices because the applicant had experienced problems receiving all of his mail.¹

On July 24, 2001, the service center director reopened the case and provided the applicant with another opportunity to be interviewed.

On June 29, 2004, the applicant was sent a fingerprint appointment notice instructing him to appear at the Application Support Center in [REDACTED] on July 20, 2004, to be fingerprinted. The notice was mailed to the applicant's address of record, [REDACTED] but the applicant failed to appear for his fingerprint appointment as scheduled.

The director, therefore, denied the application again on October 22, 2004, because the applicant failed to appear for the required fingerprint appointment as scheduled. The director informed the applicant that his appeal was still in effect and granted the applicant 30 days, until November 22, 2004, to submit additional evidence in support of his appeal. Copies of the denial notice were mailed to the applicant and to counsel, but both copies of the notice were returned to the California Service Center as undeliverable mail.

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

¹ It is noted that the record contains three Forms G-28, Notice of Entry of Appearance as Attorney or Representative, one submitted by [REDACTED] and two submitted by [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] both indicate that they are employees of One-Stop Immigration & Educational Center in Los Angeles, California. However, neither Form G-28 has been signed by the applicant authorizing that agency to represent the applicant in this proceeding as set forth at 8 C.F.R. § 292.1 or 292.2. Therefore, the applicant will be considered as self-represented, and a copy of the decision will be furnished only to the applicant.

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).

Declarations by an applicant that he has not had a criminal record are subject to a verification of facts by the Service. The applicant must agree to fully cooperate in the verification process. Failure to assist the Service in verifying information necessary for the adjudication of the application may result in a denial of the application. 8 C.F.R. § 245a.2(k)(5).

Without a fingerprint check, the applicant's claim on his application that he has not been convicted or even arrested cannot be verified.

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). Due to his failure to report for the mandatory fingerprinting, the applicant has not met this burden.

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