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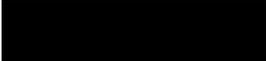


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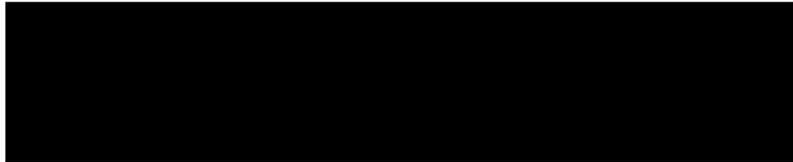
Office: CALIFORNIA SERVICE CENTER

Date:

XLB 88 504 0043

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, California Service Center. The matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application based on the determination that the applicant failed to respond to prior requests for required documentation and additional evidence establishing continuous residence in the United States from prior to January 1, 1982 through the date she filed her Form I-687 application.

On appeal, the applicant asserts that she never received the request for additional documentation and provides a Form I-134 establishing her financial support, a completed medical exam Form I-693, and additional residence documentation. The record shows that a complete copy of the applicant's legalization file was sent to the applicant on November 20, 1997.

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 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. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.2(d)(5).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E- M-*, 20 I&N Dec. 77 (Comm. 1989).

Although Service regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence since prior to January 1, 1982, as claimed, the applicant has furnished the following documentation:

1. Individual school photograph for the 1981/1982 and the 1982/1983 school years.
2. The applicant's school transcript from the Bell Gardens Intermediate School. The transcript contains the applicant's grades, years of attendance, and stamped dates of her vaccinations. The transcript shows that the applicant attended the school from September of 1981 through April 29, 1983.
3. Copy of the applicant's California School Immunization Record, dated September 18, 1984.
4. The applicant's high school transcript from the school year beginning in 1986 through the school year ending in 1990.

5. The applicant's student record accounting for the dates of her school attendance.

While the applicant in the present matter has submitted substantial contemporaneous documentation to establish her unlawful presence in the United States, none of the submitted school records show that she was attending school during the 1983/1984 school year. In light of the fact that the applicant has provided substantial contemporaneous evidence of school attendance during the remaining portion of statutory period, her inability to produce contemporaneous documentation of residence to account for the 1983/1984 school year give rise to serious questions regarding the continuous nature of the applicant's residence. Furthermore, the applicant has not submitted affidavits or any other form of documentation explaining her whereabouts during the relevant time period. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Given the applicant's ability to produce sufficient evidence to account for her presence in the United States from prior to January 1, 1982 to June 16, 1983 and from September 18, 1984 through the date she filed her Form I-687, the applicant's failure to establish her presence in the United States from July 1983 through August 1984 through either contemporaneous documentation or affidavits precludes a favorable finding in the present matter.

Accordingly, as the applicant has failed to provide sufficient evidence to establish her continuous unlawful residence from prior to January 1, 1982 through the date she filed the Form I-687, the AAO will dismiss the appeal.

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