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U.S. Citizenship
and Immigration
Services

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MAR 15 2007

FILE:

XPO 88 519 0197

Office: CALIFORNIA SERVICE CENTER

Date:

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, reopened, and denied again by the Director, California Service Center. The appeal will be dismissed.

The applicant filed her Form I-687, Application for Temporary Resident Status, on May 4, 1988. The applicant indicated on her application at Item #42 that she had been receiving welfare benefits since 1980. During her interview, the applicant told the interviewing officer that she had been receiving welfare in the amount of \$880 for her six children since 1980. She explained that she couldn't work because she couldn't afford to pay a babysitter for her children.

The director concluded that the applicant was inadmissible to the United States under section 212(a)(15) of the Act, subsequently renumbered section 212(a)(4)(A) of the Act, 8 U.S.C. § 1182(a)(4)(A), as an alien who was likely to become a public charge. On July 4, 1989, the director requested that the applicant file a Form I-690, Application for Waiver of Grounds of Excludability. The request was mailed to the applicant at her address of record, but the record does not contain a response from the applicant.

The director, therefore, denied the application on June 29, 1990, because the applicant was inadmissible to the United States under section 212(a)(15) of the Act and had not filed a Form I-690.

On July 23, 1990, the applicant filed an appeal from the denial decision. On appeal, the applicant requested that she be granted temporary resident status for humanitarian reasons so that she could continue to live in the United States with her five children who were born in this country. The applicant filed a Form I-690 on July 18, 1990. To date, the waiver application has not been adjudicated.

On November 22, 2004, the director reopened the case and provided the applicant with another opportunity to submit a Form I-134, Affidavit of Support, or evidence to establish that she was employed or self-supporting. The record contains a postal return receipt that was signed on November 29, 2004, acknowledging receipt of the notice, but the record does not contain a response from the applicant.

The director denied the application again on January 25, 2005, because the applicant is inadmissible to the United States under section 212(a)(4)(A) of the Act., 8 U.S.C. § 1182(a)(4)(A). The denial decision was mailed to the applicant's address of record, but was 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 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). (Emphasis added). 8 C.F.R. § 245a.2(d).

The applicant did not provide evidence of financial responsibility when she filed the application on May 4, 1988, when she was interviewed concerning this application on August 30, 1988, or when she was sent notices of intent to deny on July 24, 1989 and on November 22, 2004. The applicant did not list any employment history on her application, and indicated that she had been receiving welfare since 1980 for her six children. She has not submitted any evidence of any other income or support. Furthermore, the applicant has not reported subsequent address changes to Citizenship and Immigration Services (CIS) or made any inquiry with CIS regarding the status of her case since she filed the appeal in 1990. In view of the foregoing, it cannot be concluded that the applicant has established financial responsibility. Therefore, the director's determination that the applicant is likely to become a public charge will not be disturbed.

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 her failure to demonstrate financial responsibility, the applicant has not established admissibility.

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