MATTER OF BRUNNER

In Section 245 Proceedings

A-12720620
A-12858671

Decided by Regional Commissioner March 24, 1965

Application for adjustment of status, pursuant to section 245, Immigration and Nationality Act, as amended, is denied, in the exercise of discretion, to an alien who entered the United States as a nonimmigrant, having voluntarily renounced her permanent resident status previously acquired through immigration in order to facilitate her husband's re-entry as a nonimmigrant.

These cases are before the Regional Commissioner on certification by the District Director who denied the applications as a matter of discretion.

The applicants, husband and wife, were born in Germany and are citizens of that country. They were last admitted to the United States at New York City on August 20, 1964 as B-2 visitors for pleasure. Mr. Brunner was previously admitted as a B-2 visitor on September 30, 1961 and subsequently changed to student status. Mrs. Brunner was previously admitted for permanent residence as a quota immigrant on January 31, 1963. They were married at Minneapolis, Minnesota on September 27, 1963. They returned to Germany on May 30, 1964.

In a sworn statement before a Service officer Mr. Brunner testified that when he and his wife left the United States in May 1964 they fully intended to return to the United States to work and had return tickets. In order to facilitate his return he obtained a nonimmigrant visitor's visa from the American Embassy, Bonn, Germany rather than await the issuance of an immigrant visa. He further stated that before he could be issued a nonimmigrant visa, Mrs. Brunner had to renounce her permanent residence status, which she did by making the following declaration before the American Vice Counsul at Bonn:

I voluntarily renounce my immigration visa to the United States. Since I plan to return to the United States only for a vacation trip with my husband, I no longer have any use for such a visa.

Mrs. Brunner was then also issued a nonimmigrant visa.

On September 22, 1964, a little more than a month after their arrival in the United States, Mr. and Mrs. Brunner filed their applications, the denial of which is now being considered. On September 28, 1964 Mr. Brunner obtained permanent employment with the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.

It is concluded that the record in these cases amply supports the District Director's decision. The applications must be denied.

It is ordered that the applications be denied.