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FILE: [REDACTED]
MSC-05-280-11065

Office: BOSTON, MA

Date: DEC 12 2007

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

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has 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, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the District Director, Boston. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because he found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. It is noted here that in order to be eligible for adjustment of status to that of a Temporary Resident, applicants must establish that they entered the United States prior to January 1, 1982 pursuant to the regulation at 8 C.F.R. § 245a.2(b)(1). Here, the director noted and a sworn statement in the record confirms that the applicant stated in his interview with a Citizenship and Immigration Services (CIS) officer that he entered the United States with a valid visa in 1980. The director went on to say that though the applicant claimed he entered on this date, the evidence submitted with his application was not sufficient to prove by a preponderance of the evidence that he did so. It is noted here that to meet their burden of proving by a preponderance of the evidence that they are eligible to adjust status to that of a Temporary Resident, the regulation at 8 C.F.R. § 245a.2(d)(6) specifies that applicants must submit evidence apart from their own testimony.

On appeal, the applicant states that the director denied his application because he did not submit proof that he entered the United States with a visa in 1980. He goes on to say that he believes that there was a misunderstanding at the time of his interview. He asserts that he first entered the United States without a visa in 1980 and goes on to say that this is reflected on his Form I-687. He further asserts that he did try to apply for legalization during the original legalization period of May 5, 1987 to May 4, 1988. It is noted here that a sworn statement in the record signed by the applicant indicates that the applicant states that he first entered the United States in June of 1980 through JFK airport and that he was inspected at that time. It is further noted that the director denied the applicant because he did not submit sufficient proof to establish that he entered the United States on a date prior to January 1, 1982. The applicant provided no additional new evidence with his appeal. Therefore, he has not overcome the reasons for denial of his application as he has continued to fail to meet his burden of proving that he entered the United States prior to that date.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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