



U.S. Citizenship
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Services

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FILE:



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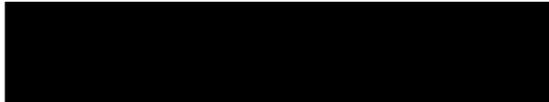
Date:

DEC 20 2007

MSC 05-181-10238

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 or rejected, 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 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, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

An applicant for temporary resident status must establish entry into the United States before January 1, 1982, and continuously residence in the United States since such date, through the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

The director issued a Notice of Intent to Deny (NOID) to the applicant, dated January 25, 2006. In the NOID, the director stated that although the applicant stated in his interview that he entered the United States from Canada without inspection in 1981, he failed to provide documentation to support that claim. The director further stated in the NOID that the applicant claimed to have resided continuously in unlawful status from January 1, 1982 until May 4, 1988, but that the single affidavit submitted by the applicant to support that claim appeared to be neither credible nor amenable to verification. The director concluded by stating that there was no proof that the affiant had direct personal knowledge of the events and circumstances of the applicant's residency, or that he was present in the United States during the statutory period. The director informed the applicant that he had 30 plus 3 days in which to respond to the NOID. The record does not show that the applicant responded to the director's request for evidence.

The director denied the application on April 4, 2006, after determining that the applicant had not submitted sufficient evidence to meet his burden of proof, and that she was therefore denying the application for the reasons stated in the NOID.

On appeal, the applicant states that he submitted evidence in response to the director's NOID request, and that the director ignored that evidence in rendering her decision. The applicant submits a copy of a United States Postal Service Certified Mail Receipt.

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.

Here, the applicant fails to address the director's concerns about the applicant's lack of evidence to substantiate his claim that he entered the United States from Canada in 1981, or that he had resided continuously in unlawful status from January 1, 1982 until May 4, 1988. It is also noted that the applicant fails to overcome the director's determination that the single affidavit submitted by the applicant appeared to be neither credible nor amenable to verification.

A review of the Notice of Intent to Deny and the director's decision reveals that the director accurately set forth a legitimate basis for denial of the application. Although the applicant submitted a copy of a United States Postal Service Certified Mail Receipt, there is no official postmark stamped on the document to show that it was actually mailed, nor is the handwritten date completely visible. It is noted that there is no evidence on record, or contained within the record of proceedings to substantiate the applicant's claim that he mailed documentation to the district office, or that the office received it. It is also noted that the applicant fails to present evidence on appeal to corroborate his statements concerning his presence and length of residence in the United States. Therefore, the applicant has not presented any evidence to overcome the director's decision. Nor has he specifically addressed the basis for denial. The appeal must therefore be summarily dismissed.

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