



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted]
MSC-05-244-13378

Office: NEW YORK

Date: DEC 20 2007

IN RE: Applicant: [Redacted]

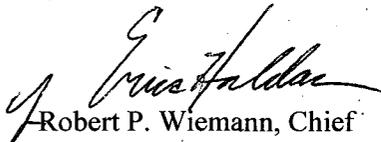
APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

[Redacted]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, New York District Office. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because she found the information submitted by the applicant was insufficient to overcome the grounds for denial described in the Notice of Intent to Deny (NOID). Specifically, counsel for the applicant had stated that the applicant was applying for temporary resident status as a derivative through her spouse. The director explained that the legal provision related to the Legal Immigration Family Equity (LIFE) Act referenced by counsel are not pertinent to the CSS/Newman Settlement Agreements that govern the determination of the applicant's eligibility for her current Form I-687 Application for Temporary Resident Status. The director denied the application for the reasons stated above and in the NOID. The director noted in the NOID that the applicant stated in her interview with the immigration officer that she first entered the United States on July 17, 1984. The director also identified inconsistencies in the applicant's statements related to her claim of class membership. Since the director decided the application on the merits, she is found not to have denied the applicant's claim of class membership.

Although the NOID accurately restated the residency requirements for temporary resident status, the director misstated the requirements in her discussion of the applicant's failure to meet her burden of demonstrating by a preponderance of the evidence that she resided in the United States from before January 1, 1982 to the date she attempted to file for temporary resident status. Instead, the director indicated the applicant had failed to establish she resided in the United States from January 1, 1982 through May 4, 1988. The director's error is harmless in this instance because, as the director indicated, the applicant admitted that she did not arrive in the United States prior to July 17, 1984.

On appeal, counsel for the applicant stated that the applicant continues to assert that a spouse is entitled to derivative status through the underlying application of his or her spouse who meets the requirements pursuant to the CSS/Newman Settlement Agreements. The applicant was married and entered the United States prior to 1988. Counsel also referred to 8 C.F.R. § 245a.33. It is noted that this provision is found in Subpart C – LIFE Act Amendments Family Unity Provisions.

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. Eligibility for temporary resident status requires that an applicant demonstrate by a preponderance of the evidence that he or she entered the United States prior to January 1, 1982. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). On appeal, the applicant has not presented additional evidence. Nor has she addressed the grounds stated for denial. Specifically, the applicant has failed to provide additional evidence or information indicating she actually meets the requirements for temporary resident status, as opposed to the requirements for permanent resident status based on the Family Unity Provisions of the LIFE Act Amendments. The appeal must therefore be summarily dismissed.

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