



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEW YORK

Date:

DEC 26 2007

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. 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 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. 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 evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. Specifically, in her Notice of Intent to Deny (NOID), the director noted that the applicant failed to provide evidence that he first entered the United States on a date before January 1, 1982. She went on to say that the only evidence the applicant submitted in support of his application was one (1) affidavit. She noted that this affidavit was not submitted with a phone number at which the applicant could be contacted to verify information in the affidavit. She further noted that it was not submitted with documents establishing the identity of the affiant or evidence that the affiant was in the United States during the statutory period. Therefore, the director found that this affidavit did not constitute sufficient, credible evidence to establish by a preponderance of the evidence that the applicant resided in the United States for the duration of the requisite period. The director granted the applicant thirty (30) days within which to submit additional evidence in support of her application. Though the director noted that her office received additional evidence from the applicant in support of his application in response to her NOID, which the record shows is a resubmission of the previously submitted affidavit, a photocopy of the affiant's driver's license and proof that the affiant entered the United States in 1977, and one envelope addressed to the applicant during the requisite period, she found that this evidence was not sufficient to overcome her grounds for denial as stated in her NOID. She further noted that the applicant testified and then submitted a sworn statement in which he stated that after his first entry into the United States, he did not depart from the United States until December 14, 2000. Because the director found that the applicant did not prove by a preponderance of the evidence that he continuously resided in the United States for the duration of the requisite period, she denied his application.

On appeal, the applicant states his first absence from the United States since he first entered was not on December 14, 2000, but rather was in December 1986 when he traveled to Canada. It is noted here that the record contains a sworn statement signed by the applicant on February 2, 2006 on which he indicates that his first absence from the United States was on December 14, 2000. He goes on to say that the director did not consider the affidavit he submitted in support of his application. However, the record shows that the director examined this affidavit and considered it in her decision but found that it was not sufficient to meet the applicant's burden of proof. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

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.