



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]
MSC 05 180 10070

Office: CINCINNATI

Date: JUL 06 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. 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, 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, Cleveland, Ohio, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant failed to appear for his legalization interview as scheduled. The district director noted that the applicant responded to the interview appointment notice requesting that his interview be re-scheduled because he was still "collecting proof." The district director determined that rescheduling an interview in order to gather more evidence does not constitute "good cause" pursuant to 8 C.F.R. § 103.2(b)(1).

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

An applicant applying for adjustment to temporary resident status must establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3).

An applicant for temporary resident status must present documents establishing proof of identity, proof of residence, and proof of financial responsibility, as well as photographs, a completed Fingerprint Card (Form FD-258), and a fully completed Medical Examination for Aliens Seeking Adjustment of Status (Form I-693). 8 C.F.R. § 245a.2(d).

Each applicant, regardless of age, must appear at the appropriate Service Office and must be fingerprinted for the purpose of issuance of an employment authorization document and Form I-688. Each applicant shall be interviewed by an immigration officer, except that the interview may be waived for a child under 14, or when it is impractical because of the health or advanced age of the applicant. 8 C.F.R. § 245a.2(j).

The required interview was scheduled for March 30, 2006. The applicant indicated in an unsigned statement on the interview appointment notice that he was unable to keep his interview appointment because he was still collecting proof to establish his claim of continuous residence in the United States during the requisite period.

The district director denied the application on March 31, 2006, because the applicant failed to appear for his legalization interview as scheduled and failed to provide a good reason for requesting that his interview be re-scheduled.

On appeal, the applicant acknowledges that he requested that his interview be postponed and submits an affidavit in support of his claim of continuous residence in the United States during the requisite period.

An alien applying for adjustment of status has the burden of proving by a preponderance of evidence that he or she has continuously resided in an unlawful status in the United States from prior to January 1, 1982 through the date of filing, is admissible to the United States under the provisions of section 245A of the Act, 8 U.S.C. § 1255a, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.2(d)(5). Due to his failure to report for the mandatory interview, and submit required documents, the applicant has not met this burden.

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