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U.S. Citizenship
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[Redacted]

FILE: [Redacted]
MSC-05-175-10869

Office: NEW YORK

Date: NOV 02 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for Temporary Resident Status was denied by the Director, New York District Office, and 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. In his Notice of Intent to Deny (NOID), the director of the National Benefits Center stated that the applicant failed to submit evidence proving that he maintained continuous residence in the United States during the requisite period, was continuously physically present in the United States from November 6, 1986 and then for the duration of the requisite period or that he was admissible as an immigrant. The applicant was granted thirty (30) days within which to submit additional evidence in support of his application. Though the director of the New York District Office noted that her office received evidence in support of the application in response to the Service's NOID, she noted that that applicant did not indicate that he had an address of residence in the United States prior to 1987 on his Form I-687. She went on to say that at the time of the applicant's interview with a Citizenship and Immigration Services (CIS) officer the applicant could not recall his address of residence from 1981 until 1987. The director also noted that she did not find the three (3) affidavits submitted by the applicant to be credible. It is noted here that the applicant submitted one (1) affidavit and two (2) statements that are not notarized. The AAO finds that none of these documents establishes that the applicant first entered the United States on a date before January 1, 1982 as [REDACTED] states she met the applicant in February 1982; [REDACTED] states she met the applicant in 1986; and [REDACTED] states she met the applicant on an unspecified date in 1982. The regulation at 8 C.F.R. § 245a.2(d)(5) states that the applicant has the burden of proving by a preponderance of the evidence that he has resided in the United States for the requisite period. To meet his burden of proof, an applicant must provide evidence of eligibility apart from his own testimony pursuant to the regulation at 8 C.F.R. § 245a.2(d)(6). Here, the applicant has not provided evidence apart from his own testimony that proves that he entered the United States before January 1, 1982. In denying the applicant, the director noted that the applicant did not meet his burden of establishing by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period.

On appeal, the applicant asserts that he has lived in the United States for the duration of the requisite period. He asserts that the affidavits he submitted establish that he has lived in the United States since 1981. It is noted that, as previously stated, the record does not contain affidavits that establish that the applicant has lived in the United States prior to 1982. 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.