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U.S. Citizenship
and Immigration
Services

LL

[REDACTED]

FILE:

[REDACTED]

Office: NEW YORK

Date: NOV 15 2007

MSC-05-014-19276

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 that 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 stated that the two (2) affidavits the applicant submitted in support of his application were found neither credible nor amenable to verification. The applicant submitted no proof that the affiants were in the United States during the requisite period or that they had direct personal knowledge of the events and circumstances of the applicant's residency during that time. It is noted here that the record indicates that affiant Babacar Seck had been residing in the United States for approximately twelve (12) years in 2005. Therefore, it appears that he was not residing in the United States during the requisite period. The director found that these affidavits did not allow the applicant to prove by a preponderance of the evidence that he resided continuously in the United States for the duration of the requisite period, which the regulation at 8 C.F.R. § 245a.2(d)(5) specifies applicants for adjustment to Temporary Resident Status must do. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted that her office received an affidavit from [REDACTED] in response to her NOID, she found it was not amenable to verification, as the phone number provided in that affidavit did not accept blocked calls. Though not noted by the director, the AAO found that this affiant also provided testimony that was not consistent with other evidence in the record. At the applicant's interview with a Citizenship and Immigration Services (CIS) officer, he stated that he first entered the United States in February of 1981. However, [REDACTED] claims that she first met the applicant in the United States in January of 1981, one month before he claims to have entered. Therefore, doubt is cast on the credibility of the statements made in this affidavit. Because the director found that the applicant did not overcome her reasons for denial as stated in her NOID, she denied the application.

On appeal, the applicant submits a form I-694 Notice of Appeal of Decision on which he states that during the requisite period he lived with a friend and had no social security card or bills that were in his name. He goes on to say that during that time he did not have any medical issues and was never arrested. Therefore, he has only affidavits and no contemporaneous evidence to prove that he resided in the United States during the requisite period. The applicant failed to state the name of the friend with whom he lived or evidence that he and that friend resided together during the requisite period. The applicant provided no additional evidence 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.