



U.S. Citizenship  
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FILE:

[REDACTED]

Office: NEW YORK

Date:

**NOV 29 2007**

MSC-05-243-10418

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, 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 applicant failed to submit additional evidence in response to the Notice of Intent to Deny (NOID) within the allotted time. In the NOID, the director stated that the applicant had not demonstrated eligibility for temporary resident status. The director also requested that the applicant provide a copy of his marriage certificate and his children's birth certificates. The record does not indicate the applicant provided a response to the NOID. It is noted that the record indicates the NOID was reissued due to the applicant's change of address. The record indicates a copy of the NOID was issued to the applicant's attorney on both occasions.

On appeal, counsel for the applicant stated that all evidence provided by the applicant is bona fide and genuine. In addition, counsel stated that he had submitted additional documents and statements in response to the NOID, on behalf of the applicant. Counsel provided no evidence of having sent a response to the NOID and failed to attach copies of the materials that he indicated had been submitted at an earlier date. It is noted that, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Since more than six months have passed since the final issuance of the NOID and more than five months have passed since the issuance of the decision, the record will be considered complete. 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.