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U.S. Citizenship
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OCT 12 2007

FILE:

MSC-05-335-10336

Office: TUKWILA, WA

Date:

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:

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, Tukwila, Washington District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because he 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, the director noted that the applicant stated on his Form I-687 that he began residing in the United States in Seattle in June of 1982. The director noted that the applicant then submitted an affidavit from affiant Letitia Pierre which states that the affiant knows that the applicant resided in Seattle beginning in January of 1982. The director went on to note that at the time of his interview with a CIS officer, the applicant stated that he lived in New York in 1982 for eight (8) months and then returned to The Gambia for two (2) to three (3) years. The director found that these inconsistencies between what the applicant showed on his Form I-687, the evidence in the affidavit he submitted and the testimony he provided during his interview were not consistent and therefore cast doubt on the applicant's claim of having resided continuously in the United States for the duration of the requisite period. It is noted here that applicants for adjustment of status must establish, by a preponderance of the evidence that they entered the United States on a date prior to January 1, 1982 and that they resided continuously in the United States from that time until the date on which they attempted to file for legalization during the initial filing period pursuant to 8 C.F.R. § 245a.2(d)(5). The regulation at 8 C.F.R. § 245a.2(h)(i) states that in order to have maintained continuous residence during the requisite period, no single absence can have exceeded forty-five (45) days. Here, the applicant has made statements asserting that he was absent from the United States for more than two (2) years, from February of 1983 until June of 1985. This represents a break in continuous residence during the requisite period that clearly exceeds forty-five (45) days. The director further stated that he found the affidavit submitted by the applicant neither credible nor amenable to verification. For those reasons, the director found that the applicant had not met his burden of establishing that he was eligible to adjust status for the reasons and denied his application.

On appeal, the applicant submits a Form I-694 on which he states that affiant [REDACTED] made a typing error in her affidavit. He goes on to say that she meant to indicate that the applicant resided in Seattle beginning in June of 1982 rather than in January 1982. It is noted here that the applicant did not explain why his testimony regarding his presence in and absences from the United States conflicted with both what he showed on his Form I-687 and the affidavit from [REDACTED]

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.