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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC-06-102-11809

Office: NEW YORK

Date: **OCT 25 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:



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. Wjeman, 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. Specifically, the director noted that affidavits that the applicant submitted in support of his application were not consistent with other evidence in the record. It is noted here that the record indicates at the time of the applicant's interview with a Citizenship and Immigration Services (CIS) officer on February 7, 2005, he indicated that he first entered with United States in November of 1981 with a valid visitor's visa that did not expire until February of 1982. It is further noted that the regulation at 8 C.F.R. § 245a.2(b)(1) requires applicants for adjustment to Temporary Resident Status to establish that they entered before January 1, 1982 and thereafter have resided continuously in an unlawful status. Here, the applicant has stated that he was not in an unlawful status in the United States prior to January 1, 1982. The director noted that the record showed that the date of birth of one of the applicant's children indicates that the applicant had not fully represented all of his absences from the United States during the requisite period. In saying this the director stated that the applicant indicated that the mother of this child had not ever entered the United States before that child's birth and that the applicant claimed he had not been absent from the United States during the year prior to that child's birth. The director concluded that discrepancies in the record did not allow the applicant to meet his burden of proof of establishing by a preponderance of the evidence that he was eligible for adjustment of status to that of a Temporary Resident.

On appeal, the applicant submits a Form I-694 Notice of Appeal of Decision on which he states that he disagrees with the director's assertion that affidavits submitted by the applicant are not consistent with other evidence in the record and are not credible. He also states that he disagrees that he has failed to meet his burden of proof of establishing that he qualifies for adjustment of status to that of a Temporary Resident. He indicates that he will submit a brief and additional evidence within thirty (30) days. It is noted here that the Service received the applicant's Form I-694 on August 22, 2006. As of October 18, 2007 the Service has not received additional evidence or an 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.