

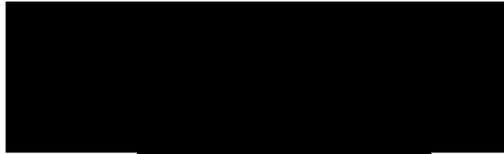
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**U.S. Citizenship  
and Immigration  
Services**

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FILE: [REDACTED]  
MSC-05-271-11920

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:

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 noted that at the time of his interview with a Citizenship and Immigration Services (CIS) officer the applicant stated that he left the United States and returned to Senegal in 1987 and then lived in West Africa in Senegal and the Ivory Coast for approximately three (3) years. Though the director did not note this in her decision, it is noted here that the applicant indicated on his Form I-687 that he resided in [REDACTED] Street from February of 1986 to April 1990 which is inconsistent with the testimony he provided at the time of his interview. This casts doubt on whether the applicant has accurately represented his addresses of residence in the United States during the requisite period on his Form I-687.

It is noted here that applicants for Temporary Resident Status must establish that they entered the United States before January 1, 1982, and then that they maintained continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(2).

For purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b), "until the date of filing" shall mean until the date the alien attempted to file a completed Form I-687 application and fee or was caused not to timely file, during the original legalization application period of May 5, 1987 to May 4, 1988, consistent with the class member definitions set forth in the CSS/Newman Settlement Agreements. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

An applicant shall be regarded as having resided continuously in the United States if at the time of filing an application for Temporary Resident Status, no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, through the date the application is filed, unless the alien can establish that due to emergent reasons the return to the United States could not be accomplished within the time period allowed, the alien was maintaining residence in the United States, and the departure was not based on an order of deportation. 8 C.F.R. § 245a.1(c).

As the applicant testified that he left the United States in 1987 and did not return until 1990 and as the record indicates his return was not delayed because of an emergent circumstance that came unexpectedly into being, the director found that he did not establish that he resided continuously in the United States for the duration of the requisite period. However, it is noted here that the record does not clearly indicate when this applicant attempted to file for legalization during the original filing period. Therefore, it is not clear whether the applicant's departure in 1987 occurred before or after he attempted to file his Form I-687 during the original legalization application period. Therefore, it is also not clear whether the applicant's absence that began in 1987 occurred during the applicant's requisite period as he could have attempted to file a Form I-687 beginning on May 5,

1987. The director granted the applicant thirty (30) days within which to support additional evidence in support of his application. The applicant did not submit additional evidence in support of his application in response to the Service's NOID, and therefore he did not overcome the reasons for denial as stated in the NOID.

On appeal, the applicant submits a Form I-694 Notice of Appeal of Decision on which he states that he would like more time to gather evidence in support of his application. He indicates on this form that he will submit a brief within thirty (30) days. It is noted that the Service received the applicant's Form I-694 on November 15, 2006. As of October 14, 2007 the Service has not received a brief from this applicant, nor has it received additional evidence in support of his application. Therefore, 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.

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.