

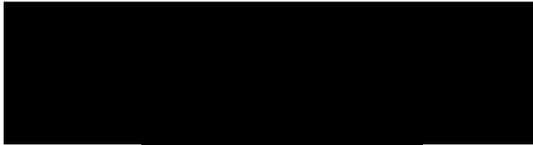
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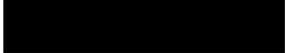
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: NEW ORLEANS, LA

Date:

OCT 31 2007

MSC-05-343-11286

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:

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 of the New Orleans, Louisiana 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, the director noted that the applicant did not submit sufficient evidence to establish that he entered the United States on a date prior to January 1, 1982 and then resided continuously in an unlawful status for the duration of the requisite period. It is noted here that the regulation at 8 C.F.R. § 245a.2(d)(5) states that the applicant has the burden of proving by a preponderance of the evidence that he has resided in the United States for the requisite period. The regulation at 8 C.F.R. § 245a.2(d)(6) goes on to say that to meet his burden of proof, an applicant must provide evidence of eligibility apart from his own testimony. Here, the director noted that the applicant submitted one (1) statement in support of his application. This statement was from [REDACTED] and the director found it was not sufficient evidence to meet the applicant's burden. It is noted here that this statement shows that [REDACTED] lived with the applicant from an unspecified date in 1982 until 1987. Therefore, the applicant has not submitted evidence in support of his application that pertains to the duration of the requisite period, which began on a date prior to January 1, 1982. Though the director went on to state that the applicant's absence from the United States from 1993 until 2005 constitutes an abandonment of residence because it was in excess of forty-five (45) days, it is noted here that applicants for adjustment of status to that of a Temporary Resident under the CSS/Newman Settlement Agreements bear the burden of establishing that they continuously resided in the United States from a date before January 1, 1982 until the date that they attempted to file for legalization during the original filing period. This original filing period occurred between May 5, 1987 and May 4, 1988. Therefore, absences that occurred after May 4, 1988 are not relevant to this proceeding and do not constitute a break in continuous residence during the requisite period. However, the director determined and the record supports that the applicant did not meet his burden of establishing that he resided continuously in the United States for the duration of the requisite period as he has not submitted documentation that proves by a preponderance of the evidence that he entered the United States before January 1, 1982.

On appeal, the applicant states that he is collecting necessary evidence to support his claim that he resided continuously in the United States for the duration of the requisite period. It is noted that the Service received the applicant's properly filed Form I-694 on which he made this statement on October 24, 2006. As of October 11, 2007 the Service has not received additional evidence in support of this applicant's appeal. Therefore, it is determined that 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.