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

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FILE:

[REDACTED]

Office: LOS ANGELES, CA

Date:

SEP 14 2007

MSC 06-074-11684

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. All documents have 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 or rejected, 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 "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004, (CSS/Newman Settlement Agreements) was denied by the District Director, Los Angeles, and that decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

An applicant for temporary resident status must establish entry in to the United States before January 1, 1982 and continuous residence in the United States since such date through the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

The director denied the application because she found the applicant did not meet his burden of proof of establishing, by a preponderance of the evidence that he had resided continuously in the United States for the duration of the requisite period. Specifically, the director noted that, during his interview with a CIS officer on June 9, 2006, the applicant testified under oath and then submitted a sworn statement in which he stated that he left the United States from 1983 to 1985 for one (1) year and (3) three months to be with his family in Mexico. The director noted that 8 C.F.R. § 245a.2(h) states in pertinent part that in order to be regarded as having resided continuously in the United States during the requisite period, no single absence from the United States can have exceeded forty-five (45) days between January 1, 1982 through the date the application for temporary residence status is filed, unless the alien can establish that due to emergent reason, his or her return to the United States could not be accomplished within the time period allowed. Here, the director states and the record supports that the applicant's claimed absence exceeded forty-five (45) days. Further, the record does not indicate that his return was delayed because of emergent circumstances that he did not anticipate at the time he left. The director also notes that the applicant claimed that he first tried to apply for legalization in 1986. It is noted here that the original legalization application period was from May 5, 1987 to May 4, 1988. Though the applicant provided affidavits in an attempt to establish that he maintained continuous residence in the United States during the requisite period, the director found that this evidence did not overcome the applicant's testimony or his sworn statement provided at the time of the applicant's interview, both of which indicated that the applicant did not maintain continuous residence in the United States for the duration of the requisite period.

In this case, the director adjudicated the Form I-687 application on the merits. As a result, the director is found not to have denied the application for class membership.

On appeal, the applicant submits a Form I-694 on which he reiterates the director's reasons for his denial and then asserts that he submitted numerous affidavits from individuals stating that he was physically present in the United States since prior to January 1, 1982. No additional evidence or explanation to overcome the reasons for the denial of his application was provided with the applicant's Form I-694.

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, relevant evidence. Nor has he specifically addressed the basis for denial. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.