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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:



MSC-05-168-12036

Office: NEW YORK

Date:

AUG 26 2008

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The applicant must establish entry into the United States before January 1, 1982, and continuous residence in the United States since such date through the date the application is considered filed pursuant to the CSS/Newman Settlement Agreements. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on March 17, 2005. On November 6, 2006, the director denied the application after determining that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director noted that the applicant was six years old when he allegedly entered the United States, but had provided no school records, immunization or medical records to substantiate his claim. The director also noted that the applicant had failed to provide attestations from any adult responsible for his care upkeep and financial support. The director further noted that the affidavits submitted were not credible or amenable to verification. The director denied the application, finding that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts that he did provide an affidavit from [REDACTED] which includes her date of birth, place of birth, and telephone number. The applicant further asserts that the affiant is a United States citizen and that she was present in the country during the 1980s. The applicant submits as evidence a copy of a birth certificate for [REDACTED], and a copy of a New York State Benefit Identification Card for an [REDACTED]. The applicant submits an affidavit from [REDACTED] dated November 20, 2006 in which she states that she has known the applicant since November 13, 1980, when she met him in Harlem, New York, where his mother was selling African products on the street corner. This statement is inconsistent with the affiant's statement she made on December 7, 2005, where she indicated that she had met the applicant in Harlem, New York, where he had been a street vendor for nearly 18 years. It is also noted by the AAO that the applicant stated on his Form I-687 application that he became a street vendor in New York in 1987. There has been no plausible explanation given for the inconsistencies.

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 director's decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented sufficient evidence to overcome the director's denial. Nor has he 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.