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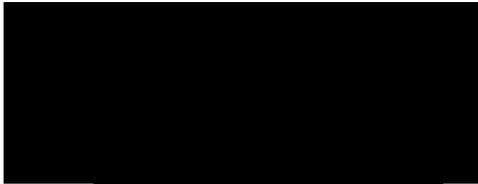
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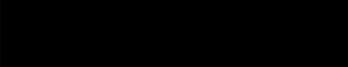
U.S. Citizenship
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Services

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FILE:



MSC 05 162 10042

Office: MILWAUKEE

Date: FEB 08 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. 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 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, Milwaukee. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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 11, 2005. The director determined 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 acknowledged the applicant's submission of two affidavits in support of his claim, but noted they were not corroborated by other evidence in the record. The director denied the application as the applicant had not met his burden of proof and was, therefore, not eligible to adjust to Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant explains that it is impossible for him to produce any physical documentary evidence dating back to the 1980s, as he did not realize that it would be useful to keep any papers from that period of time. He requests that his application be reconsidered.

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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the application.

Although the appeal will be dismissed, it is noted that the director stated that the applicant must establish that he entered the United States before January 1, 1982 and thereafter resided in continuous unlawful status through May 4, 1988. This is not correct. An applicant for temporary resident status must establish entry into the United States before January 1, 1982, and 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 Act, 8 U.S.C. § 1255a(a)(2). For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b)(1) means until the date the applicant 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. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

However, the director's error is found to be harmless. A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. The applicant has not presented additional evidence or otherwise addressed the grounds for denial on appeal. The appeal must therefore be summarily dismissed.

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