

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

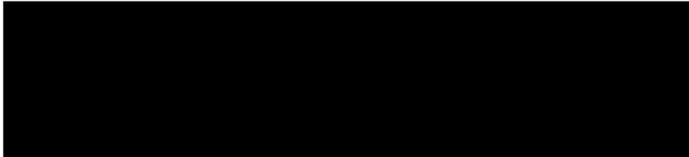
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



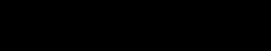
U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L1



FILE:



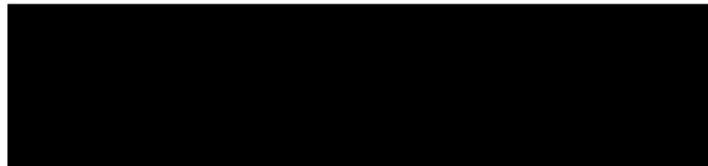
MSC 06 088 13355

Office: NATIONAL BENEFITS CENTER

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.

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 Director, National Benefits Center. 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 December 22, 2005. The director determined that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period.¹ The director observed that the applicant had not provided any contemporaneous evidence of residence in the United States relating to the requisite period, and had submitted only one attestation, from [REDACTED]. The director found that the affidavit from [REDACTED] was not credible and did not establish that the applicant had entered the United States prior to January 1, 1982 and resided in this country in an unlawful status for the requisite period. 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 states that she is aware that she needs more evidence in support of her application. She attaches a copy of a 2006 Social Security Statement issued to [REDACTED] which shows that he had earnings in the United States dating back to 1977.

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. A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application.

While the applicant has submitted additional evidence on appeal to establish that the individual who provided an affidavit on her behalf was residing in the United States during the relevant period, the applicant has not addressed the other deficiencies discussed in the director's decision. As discussed by the

¹ 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.

director, the affidavit from [REDACTED] does not meet the applicant's burden to establish by a preponderance of the evidence that she resided in the United States continuously for the duration of the requisite period. The affiant states that he met the applicant in 1977, but does not indicate where or under what circumstances he met her. The record shows that the applicant was born in Mexico in July 1977. She indicated on her Form I-687, Application for Status as a Temporary Resident, that she has resided in Detroit since 1990, but did not indicate any period of residence in the United States during the requisite period. The applicant stated on her Form I-687 that she violated her legal status prior to January 1, 1982, but she has not provided her date of entry to the United States.

[REDACTED] further stated that the applicant indicated to him in or around 1979 that she tried to legalize her status through the amnesty program. As noted by the director, the dates of the initial legalization application program were from May 5, 1987 until May 4, 1988 and there was no such program in 1979. Furthermore, the applicant was two years old in 1979 and it is thus unlikely that she communicated this information to [REDACTED] at that time. The affiant claimed to be a friend of the applicant, but he did not provide any details of the events and circumstances of her residence in the United States that would lend credibility to his claim of a friendship spanning 29 years, such as details regarding with whom she resided, whether she attended school, etc. This is significant because the applicant was between 4 and 10 years old during the requisite period. As noted by the director, the affiant did not establish that he had any direct, personal knowledge of the information to which he attested.

As the applicant has not addressed the grounds for denial or submitted relevant evidence to overcome the basis of the director's decision, the appeal must be summarily dismissed.

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