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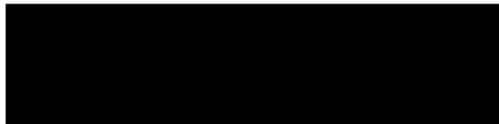
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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U.S. Citizenship
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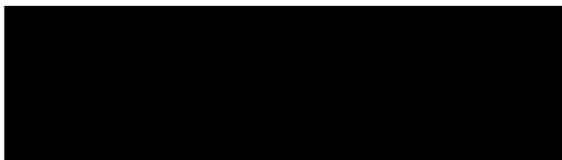
Applicant:



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:



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, New York. 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 April 18, 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.¹ In a Notice of Intent to Deny (NOID) issued on January 30, 2006, the director noted that the applicant had not submitted any evidence in support of his claim of continuous residence in the United States. The director observed that the applicant's administrative record contains a Form I-589, Request for Asylum in the United States, that was signed and dated by him on September 8, 1994, on which he indicated that he first entered the United States in 1989 and never entered this country before that time. The director noted that the applicant also indicated on a Form G-325 that he had lived in Gambia from birth until 1989, thus casting doubt on his claim that he first entered the United States in March 1981 and resided in the United States for the duration of the requisite period.

In denying the application, the director acknowledged the evidence submitted in response to the NOID, noting that such evidence included: a receipt from Saba Distributing Company dated 1982 and addressed to the applicant in Gambia; and, a letter from the applicant's sister dated February 10, 1987, which was not accompanied by an envelope bearing a postmark. The director found that the evidence did not overcome the noted discrepancies in the applicant's testimony. 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 he has submitted all of the evidence he can obtain, noting that it was impossible for him to obtain documentation issued in his name in the early 1980s. He submits a letter from [REDACTED], Pastoral Associate, on the letterhead of Holy Name of Jesus Franciscan Friars, located in New York. [REDACTED] states that the applicant has been a member of the Holy Name Parish since 1989. Since the information provided by [REDACTED] is not relevant to a determination regarding 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.

applicant's continuous residence during the requisite period, it will not be considered. The applicant submits no other evidence in support of the appeal.

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. The applicant has not presented additional relevant evidence or otherwise addressed the grounds for denial, specifically, the noted inconsistencies between statements he made on his Form I-589 and on his Form I-687. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Based on the foregoing, the appeal must be summarily dismissed.

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