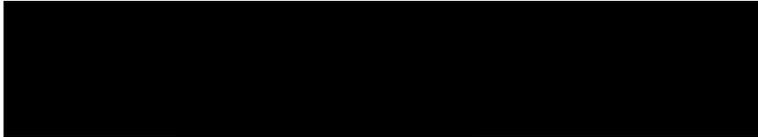




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy**

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FILE:

MSC 04 307 11832

Office: NEW YORK

Date:

**FEB 28 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, 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 August 2, 2004. 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.<sup>1</sup> 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 noted that the affidavit from [REDACTED] was significantly lacking in detail regarding the affiant's knowledge of the events and circumstances of the applicant's residence and was not credible, probative, or amenable to verification. The director further noted that the applicant testified under oath during his interview with a Citizenship and Immigration Services (CIS) officer that: (1) his only trip outside the United States was from June to July 1986; (2) that his former spouse was never in the United States; and (3) that he had two children with his former spouse who were born on November 20, 1982 and August 7, 1987, respectively. The director noted that the applicant had failed to explain the discrepancy between the dates of birth of his children and his claim that he only left the United States one time in the summer of 1986, thus calling into question the credibility of his 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 re-submits a copy of the affidavit from [REDACTED] and states that his family needs him to stay legally in the United States so that he can work and send them money.

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.

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<sup>1</sup> 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.

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 addressed the grounds for denial or submitted evidence to overcome the basis of the director's decision. Therefore, the appeal must be summarily dismissed.

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