



U.S. Citizenship  
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Services

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FILE:



Office: NEW YORK

Date:

**FEB 28 2008**

MSC 04 353 10503

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 September 17, 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> In a Notice of Intent to Deny (NOID) issued on March 13, 2005, the director acknowledged that the applicant submitted affidavits from [REDACTED] and [REDACTED]. The director noted that during his interview with a Citizenship and Immigration Services (CIS) officer on March 13, 2006, the applicant stated that he did not know who [REDACTED] is. The applicant stated, with some hesitation, that he used to live with [REDACTED], but the director noted that [REDACTED] made no such claim in his affidavit. The director therefore found that neither the applicant's testimony nor the affidavits were credible. In denying the application, the director acknowledged that the applicant submitted two additional affidavits in response to the NOID, but found that both affidavits lacked probative value, as there was no proof of a relationship between the applicant and the affiants, and as neither affiant provided any specific information regarding the applicant's residence in the United States. 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 he has been residing in the United States since prior to January 1, 1982 and that he submitted evidence to support the credibility of his application. He asked that the decision to deny his application be reconsidered, and that he be given another opportunity to meet the requirements.

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 director properly addressed the probative value and credibility of the documentary evidence submitted in support of the application. The applicant has not addressed the grounds for denial or submitted additional 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.