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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC-05-174-11024

Office: NEW YORK

Date: JAN 04 2008

IN RE: Applicant: [REDACTED]

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 director denied the application because she found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. Specifically, in her Notice of Intent to Deny (NOID), the director noted that the applicant failed to provide evidence that he entered the United States before January 1, 1982 and then resided continuously in an unlawful status since his date of entry and until he was turned away by Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), during the original legalization filing period or that he was continuously physically present in the United States from November 6, 1986 until he attempted to file for legalization during the original filing period. It is noted here that though the director noted that the applicant was absent from the United States for more than forty-five (45) days, from January to April of 2000, this absence occurred after the requisite period. Therefore, this absence is not relevant and should not be considered when determining whether the applicant maintained continuous residence during the requisite period. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. In her Notice of Decision the director noted that her office received evidence from the applicant in support of his application. However, she found that the documents submitted were insufficient to overcome her grounds for denial. The director noted that the affidavits submitted by the applicant in response to her NOID were not submitted with evidence that the affiants were in the United States during the requisite period and were not found to be credible by her office. Therefore, the director denied the application, finding that 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 will submit more evidence and a brief in support of his application within thirty (30) days. It is noted here that CIS received the applicant's appeal on June 30, 2006. To date, CIS has not received a brief or additional evidence from this applicant. Therefore, the applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

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.

On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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