



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
MSC-05-327-11622

Office: NEW YORK

Date: JAN 14 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 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 November 16, 2004. The director determined that the applicant failed to demonstrate that he had continuously resided in the United States in an unlawful status for the requisite period. He noted specifically that the applicant admitted that he had returned to Nigeria for five or six months, from April to September, 1982, clearly interrupting any continuous residence he may have established, and that the applicant failed to provide evidence that his return to the United States had been delayed due to emergent circumstances, citing to the requirements of 8 C.F.R. § 245a.2(h). The director also noted that the applicant claimed that he had a child born in Nigeria in 1987, but also claimed that his wife had never been in the United States; he later stated that she had been in the United States. Based on the lack of evidence and conflicting statements by the applicant, 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.

In his Notice of Appeal, filed on August 24, 2006, the applicant did not specify any legal or factual error in the director's decision and did not provide any documentation in support of his claim. He stated simply that no evidence of his operation, or of his wife's travel, was available because the events occurred over 20 years ago.

Any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. 8 C.F.R. § 103.3(a)(3)(iv).

A review of the decision reveals that the director included erroneous conclusions in her decision regarding the need for "primary or secondary evidence" of the applicant's unlawful residence and presence in the United States during the statutory period. However, the director also accurately set forth a legitimate basis for denial of the application, noting the applicant's inconsistent testimony, his admission of an absence of over 45 days and lack of credible evidence of an emergent reason for any delay in returning. On appeal, the applicant has not presented additional evidence and has not addressed the basis for denial. The appeal must therefore be summarily dismissed.

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