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U.S. Citizenship  
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Services

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FILE:

MSC 05 272 10359

Office: LOS ANGELES

Date: JAN 17 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.

A handwritten signature in black ink, appearing to read "Eric Felder".

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, Los Angeles. 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 June 29, 2005. The director determined that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period.<sup>1</sup> In denying the application, the director noted that on July 11, 2006, the applicant testified orally and in writing that she left the United States in 1982 for three months for the birth of her child. The director cited to the regulation at 8 C.F.R. § 245a.2(h)(1)(1)(i), which provides that an applicant for temporary residence shall be regarded as having resided continuously in the United States if no single absence from the United States during the requisite period has exceeded forty-five (45) days, unless the applicant can establish that emergent reasons delayed his or her return to the United States. The director denied the application as the applicant had not met her burden of proof by a preponderance of the evidence that she continuously resided in the United States for the requisite periods, 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 on Form I-694, Notice of Appeal of Decision Under Section 210 or 245A, that she believes she is "statutorily applicable" for adjustment of status under section 245A of the Act. The applicant states that she understands that her three-month absence from the United States could cause her to be ineligible, but feels "it would not be fair for your office to close my case for my brief departure in 1982." The applicant submits copies of affidavits from [REDACTED] and [REDACTED]; however, these affidavits do not refer to the applicant, but rather the affiants attest to their relationship with [REDACTED] p. As these affidavits do not pertain to the applicant, they will not be considered.

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. Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

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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.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

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's claim that it was unfair for the director to apply the regulations to the facts of her case is unpersuasive. The applicant's admitted three-month absence from the United States in 1982 does in fact interrupt her claimed period of continuous residence during the requisite period, as her trip exceeded 45 days in length, and she has not provided evidence that, due to emergent reasons, she was unable to return to the United States within the time period allowed. Moreover, it is noted that the applicant indicated on her Form I-687, Application for Status as a Temporary Resident, at part 32, that she had never been absent from the United States. Although she signed this application under penalty of perjury, the record shows that she later testified under oath that she was in fact absent from the United States for three months in 1982. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The applicant has not presented additional evidence or otherwise substantively addressed the grounds for denial, nor has she identified an erroneous conclusion of law or statement of fact in support of the appeal. The appeal must therefore be summarily dismissed.

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