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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: NEW ORLEANS (FORT SMITH) Date: JUL 2 4 2008

MSC 06 067 12279

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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 Orleans. That decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant did not establish that he continuously resided in the United States for the duration of the requisite period. The director quoted the part of Section 245A of the Immigration and Nationality Act which provides that the Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien establishes, in part, continuous residence in the United States since before January 1, 1982. As indicated by that quote, the alien must establish that she entered the United States before January 1, 1982 and that she has resided continuously in this country in an unlawful status since that date and through the date the application is filed.[1]

According to her decision, the director found that the applicant's response to part 16 of the Form I-687 application and the applicant's statements in her October 5, 2006 interview at the Fort Smith, Arkansas office indicated that the applicant had not entered the United States before 1988. The director therefore determined that the applicant is not eligible for the benefits sought in the application, as her own statements indicate that the applicant did not enter the United States and begin a continuous unlawful residence there prior to January 1, 1982, as required by statute and regulation.

On appeal, the applicant asserted that she had established that she had been continuously present in the United States since November 6, 1986, and through the date her application was filed. She asked that the record be reviewed and her appeal considered. However, the applicant does not address the specific basis of the director's decision, that is, failure to establish continued unlawful presence from before January 1, 1982. The documents and the witness statements submitted on appeal (from [redacted] and [redacted]) do not address any period prior to 1985. Therefore, they also fail to address the basis of denial. Further, the record of proceeding provides no assertion from the applicant, no witness statements, and no documentary evidence that the applicant commenced continuous unlawful residence in the United States prior to January 1, 1982.

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

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[1] 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.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence indicating that the applicant began a continued unlawful residence in the United States prior to 1982. Nor has she specifically 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.