

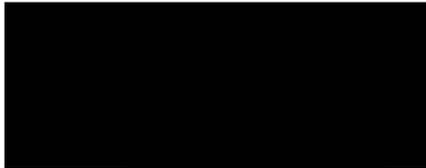
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., NW, Rm. 3000
Washington, DC 20539



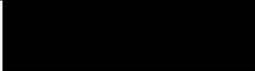
U.S. Citizenship
and Immigration
Services

PUBLIC COPY



4

FILE:



Office: NEW YORK

Date:

JUL 31 2008

MSC-05-155-11964

IN RE:

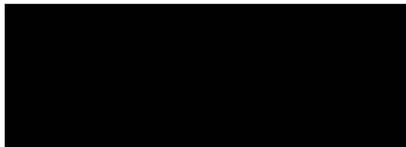
Applicant:



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:



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 York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily 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 March 4, 2005 (together, the I-687 Application). 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, specifically noting that counsel's response to the director notice of intent to deny (NOID) did not overcome the grounds for denial detailed in the NOID. The director denied the application as the applicant had not met her 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, counsel submits a timely Form I-694 Notice of Appeal of Decision Under Section 210 or 245A and waives the right to submit a written brief or statement. On the Form I-694, counsel states that the applicant's "credible" testimony and the affidavits submitted "tend to prove the underlying facts in her case." As of this date, the AAO has not received any additional evidence from counsel or the applicant. Therefore, the record is complete.

Beyond the decision of the director, the AAO notes inconsistencies between the applicant's Form I-687 and the Form I-130, Petition for Alien Relative submitted on September 16, 1997 on her behalf which call the applicant's credibility into question. The Form I-130 states that the applicant was married to [REDACTED] and that the marriage ended on August 14, 1994. At part #11 of the Form I-687, the applicant indicates that she has never been married. The Form I-130 also states that the applicant last arrived in the United States on December 23, 1994 with a B-2 visa. The record of proceeding contains copies of the applicant's B-2 visa and Form I-94 indicating her arrival on December 23, 1994. The Form I-687 states that the applicant's last arrival into the United States was on September 1980. The Form I-130 also states that the applicant began working as a "church worker" in 1995. This employment is not included in the Form I-687. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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.

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 any new evidence. Counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor

has counsel specifically addressed the basis for denial. As the applicant presents no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(3)(iv).

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