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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 05 225 10548

Office: NEW YORK

Date: JUN 09 2008

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Resident Status under 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 on your appeal. You no longer have a case pending before this office. If your appeal was sustained or the matter was remanded for further action, your file has been returned to the office that originally decided your case, and you will be contacted. If your appeal was dismissed or rejected, your file has been sent to the National Benefits Center. You are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The District Director, New York, denied the application for temporary resident status made 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). The decision is now before the Administrative Appeals Office (AAO) 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 basis of the decision was stated within that decision.

On appeal, the applicant stated,

On July 26, 2006 U.S. Citizenship and Immigration Services New York District Office denied my application

USCIS New York District Office alleged that I was notified on June 27, 2006 of its intent to deny my Application if additional evidences [sic] were not submitted. I have never received such intent to deny. Furthermore it was stated that the intent to deny was returned by the post office as undeliverable [sic] on July 24, 2005. I did not receive any mail from the Post Office and my address has not changed.

USCIS New York District office decision [sic] is unfair and dismissive therefore I respectfully urge this office to reverse New York District Office [sic] decision and allow me to submit evidences [sic] in support of my Application

The applicant implies that the failure to provide him with a notice of intent to deny was a procedural error. The record supports that, as the applicant claims, he did not receive the notice of intent to deny. That notice was not, however, returned as undeliverable. As the director stated in the decision of denial, that notice of intent to deny was returned **unclaimed**. The notice and the envelope in which it was sent to the applicant are in the record. They were correctly addressed, and the post office indicated that they were returned to CIS after the applicant failed to claim them at the post office despite at least two notifications. The applicant's failure to pick up his mail does not constitute a procedural error by CIS.

Further, the basis for the decision of denial was stated in that decision, which the applicant clearly received. In his appeal, the applicant failed to specifically address the basis for the decision of denial and did not furnish any additional evidence.

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 additional evidence or 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.