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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
SRC-01-118-51475

Office: TEXAS SERVICE CENTER Date: **JUN 13 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:
[REDACTED]

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.

For 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 Director, Texas Service Center. The decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because he found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. Specifically, he referred to a request for evidence (RFE) his office issued to the applicant on September 11, 2007. In the RFE, the director requested that the applicant submit a copy of her passport showing an entry in 1981 and her I-94 received at the time of that entry. The director also specified that the applicant submit any other documentation as proof of her entry into the United States prior to January 1, 1982. In his decision, the director stated that the documents the applicant submitted in response to his RFE did not allow the applicant to meet her burden of proving that she first entered the United States before January 1, 1982. The AAO notes that though the applicant previously submitted two affidavits from [REDACTED] in support of her claim of continuous residence in the United States, the dates this affiant stated the applicant resided with her on [REDACTED] are not consistent with the dates the applicant indicated she lived at that address on her Form I-687. Further, though the applicant submitted a statement from St. John Bosco Church attesting to the applicant's membership in that church since 1981, the applicant did not indicate that she was a member of this church on her Form I-687.

On appeal, the applicant's counsel states that the director erred because the applicant had previously provided the only proof available regarding her entry into the United States prior to January 1, 1982. Counsel states that the applicant lost her I-94 and requested but did not receive a copy of the document. Therefore, counsel states that the applicant cannot provide this document. Counsel does not provide an explanation regarding the applicant's failure to provide a copy of her passport or additional proof of her entry into the United States prior to January 1, 1982.

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.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Though she addressed the grounds stated for denial, counsel's explanation of why the requested evidence was not submitted is that the evidence is not available. It is noted that the regulation at 8 C.F.R. § 103.2(b)(2)(i) specifies that the non-existence or other unavailability of required evidence creates a presumption of ineligibility. The appeal must therefore be summarily dismissed.

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