



U.S. Citizenship  
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FILE: [REDACTED]  
MSC-06-038-11660

Office: BALTIMORE

Date: **MAY 22 2008**

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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, Baltimore. The decision is now before the Administrative Appeals Office (AAO) 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 noted that to be eligible to adjust status to that of a Temporary Resident under the CSS/Newman Settlement Agreements, an applicant must show that he or she was residing unlawfully in the United States before January 1, 1982 and then continuously for the duration of the requisite period. Here, the director noted that the applicant signed a sworn statement at the time of her interview with a Citizenship and Immigration Services (CIS) officer on September 6, 2006 in which she stated that she entered the United States legally in 1981 with her aunt. It is noted here that the record shows the applicant stated that she entered in December around Christmas time in 1981. The director went on to say that as a legal visitor, the applicant would have been granted a visa that would have been valid for six months. The director noted that the applicant failed to provide his office with documentation that would prove that she was in unlawful status on a date before January 1, 1982. The also director noted that the applicant provided two affidavits from individuals who claim to have known the applicant since 1981. However, the director found that the applicant's testimony given in her sworn statement was not overcome by these affidavits. Because of this, the director found that the applicant had not met her burden of proving that she was eligible for adjustment of status to that of a temporary resident under the CSS/Newman Settlement Agreements and he denied the application.

On appeal, the applicant states that there were only three days left on her aunt's visa when she entered the country. The AAO notes here that regardless of when the applicant's aunt's visa expired, the date her authorized stay of admission expired rather than her visa expiration date would determine when her status became unlawful. A visa allows an individual to travel to a port-of-entry and request to be admitted. It does not determine the length of time an immigrant or non-immigrant can stay in the United States. This determination is made at the port-of-entry when the immigrant or non-immigrant arrives in the United States. The applicant has not submitted evidence of the date her status became unlawful, such as an admission stamp from Immigration and Naturalization Service (INS), now Customs and Border Protection (CBP) in her passport that would show how long she was lawfully admitted to the United States for. Therefore, it is not possible to determine when her status became unlawful. She states that she submitted credible affidavits to support her claim. However, the applicant did not submit additional evidence other than her assertion to prove that she was residing unlawfully in the United States prior to January 1, 1982. Her passport from 1981 is not in the record and was not submitted with her appeal.

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. Nor has she addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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