

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

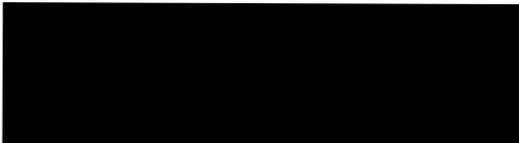
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L1



FILE:



MSC-06-088-15638

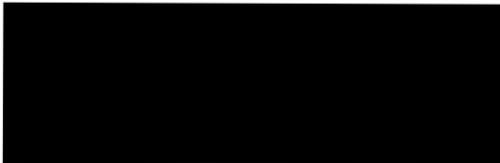
Office: NEW YORK

Date:

NOV 14 2008

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, on December 27, 2005. In denying the application, the director determined that the affidavits the applicant furnished as corroborating evidence do not appear to be credible. The director noted that several of the affiants were contacted and gave testimony that was either vague or inconsistent with their affidavits. The director specifically noted that the affiants testified that the applicant resided in the United States without his spouse during the requisite period. The director found this testimony to be in conflict with the applicant's assertions that his spouse gave birth to his child in 1983 and he was not absent from the United States during this time period. Furthermore, the director determined that the applicant gave inconsistent testimony regarding his purported employment with Essex Shipping and Travel (Essex Shipping). The director stated that on the applicant's prior Form I-687 application he indicated that he was employed with the Essex Shipping Company Inc. from May 1981 to August 1987.¹ The director noted that the applicant did not indicate that he was employed with Essex Shipping on the current Form I-687 application. The director also stated that in the applicant's rebuttal letter to the Notice of Intent to Deny in relation to the current application, he indicated that he was employed with Essex Shipping in 1984 and 1986. The director noted that during the applicant's interview for the current application, he testified that he was employed with Essex Shipping for only six months. Additionally, the director noted that the applicant had admitted, during his interview for the prior application, that he obtained his 1984 and 1986 W-2 Forms for Essex Shipping and Travel through Equa Travel, a travel agency in Brooklyn. The director concluded that based on these inconsistencies the applicant had not met his 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, the applicant fails to address the specific inconsistencies noted by the director. Instead he claims, through counsel, that he has not been given an opportunity to explain or rebut the director's findings. He asserts that the director has made unfounded allegations or drawn unfounded conclusions not based on the evidence in the record. He contends that the evidence in the file is sufficient to establish his claim to legalization pursuant to the Settlement Agreements. He maintains that the evidence in the record indicates that he is eligible for legalization and the application should be approved. He states that in the alternative, the case should be remanded to give him the opportunity to rebut any alleged evidence. However, the applicant failed to specifically address the director's analysis of his evidence, and did not furnish any additional evidence.

¹ The applicant filed this application on November 1, 1989 for a determination of his CSS class membership.

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. Nor has he 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.