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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC-05-225-11220

Office: NEW YORK

Date: NOV 24 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:

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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.

John F. Grissom, Acting 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, or *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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant had failed to meet the burden of proof by a preponderance of the evidence that he entered the United States before January 1, 1982 and has resided continuously in the United States in an unlawful status throughout the requisite period. Specifically, the applicant had not submitted credible evidence to support his claim of eligibility pursuant to section 245A of the Immigration and Nationality Act (Act).

On appeal, the applicant submits a notarized statement in which he reaffirms his eligibility for permanent resident status under section 245A of the Act and states that he could not submit documents pertaining to his entry into the United States in 1981 because the people who helped him cross the border, the smugglers as he called them, had robbed all of his belongings including his passport. Furthermore, the applicant states in his statement that he was nervous during the interview and to excuse any inconsistent statements he may have given.

Pursuant to 8 C.F.R. § 245a.2(d)(6) regarding the sufficiency of evidence, the applicant is required to provide evidence of eligibility apart from his or her own testimony to meet the burden of proof by a preponderance of the evidence. Besides the notarized statement that he submits on appeal, the applicant provides no additional evidence or explanation to overcome the reasons for denial of his application.

The applicant fails to specifically address the director's analysis of the evidence and does not furnish any additional relevant evidence.

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 he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

The AAO notes further that the applicant is ineligible for temporary resident status pursuant to section 245A of the Act. The regulations state that continuous residence in the United States is broken when an applicant for temporary resident status leaves the United States for more than 45 days during the statutory period, unless he or she can show that return cannot be accomplished due to an emergent reason. 8 C.F.R. § 245a.2(h). **On the Form for Determination of Class Membership in CSS v. Thornburgh (Meese)**, the applicant reported a single absence from the United States for 65 days between September 5, 1987 and November 9, 1987. At part #32 of the Form I-687, which requires applicants to list all absences from the United States, the applicant indicated that he visited family in

Bangladesh from September to November 1987. There is no evidence in the record indicating the purpose of the applicant's visit in Bangladesh and an emergent reason relating to the applicant's inability to return to the United States within 45 days or less.

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