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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-06-031-12191

Office: LOS ANGELES

Date: OCT 10 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. 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 Director, Los Angeles. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because she 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, the director stated that at the time of his interview with a Citizenship and Immigration Services officer on April 14, 2006 the applicant testified under oath that he first entered the United States in November 1981. However, he submitted evidence of his presence in the United States on October 30, 1980. The director also noted that though the applicant stated he was only absent from the United States once during the requisite period, from July to August in 1987, and though the record reflects that at the time of his interview he stated that his wife did not enter the United States until 1988, his wife gave birth to two of his biological children in 1983 and in February 1987. This indicates that the applicant was present in Mexico for the conception of these children approximately nine months before their births. The director stated that these discrepancies cast doubt on statements made by the applicant regarding his continuous residency in the United States during the requisite period and caused him to fail to satisfy his burden of proof.

On appeal, the applicant states that his absence from the United States was due to an emergency and was for less than 45 days. He states that his wife did become pregnant on two occasions when he was in Mexico. He states that he misstated his date of first entry into the United States and asserts that he must have been in the United States in 1980 if he submitted evidence that proves his presence in the United States in 1980. He states that he did not try to provide false testimony, but asserts that because of the passage of time, it is difficult to remember details of events.

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 he has addressed the grounds stated for denial, he has not offered proof that he maintained continuous residence in the United States for the duration of the requisite period other than his own, inconsistent statements. The appeal must therefore be summarily dismissed.

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