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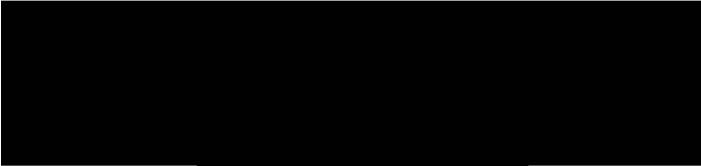
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEW YORK

Date:

OCT 16 2008

MSC 05-216-10095

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 be "R. 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 District Director, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The applicant must establish entry into the United States before January 1, 1982, and continuous residence in the United States since such date through the date the application is considered filed pursuant to the CSS/Newman Settlement Agreements. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Act, and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on May 4, 2005. The director denied the application on March 10, 2006, after determining that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director noted that the applicant had submitted affidavits that were not amenable to verification. The director further noted that the applicant stated under oath during his interview with immigration officers on October 18, 2005 that he was only absent from the United States for a week in October of 1987, when he traveled to Canada. However, the director noted that the record of proceeding shows that the applicant was issued a passport in Haiti on April 25, 1986 and that a letter from the Haitian Armed Forces confirms that the applicant applied for his passport in person in Haiti. The director further noted that a letter from the Police Headquarters in Part au Prince was issued to the applicant on June 9, 1986, in Haiti, declaring that he had never been arrested. The director noted that the years of employment claimed by the applicant were not listed on his Form I-687 application at part #33 where it asks him to list his employment history. The director denied the application based upon the fact that the applicant had been absent from the United States for more than 45 days during any single trip, because the applicant's testimony contradicted the documentation contained in the record of proceeding, and because the evidence he submitted was insufficient to support his claim of continuous unlawful residence and continuous physical presence in the United States during the requisite periods.

On appeal, counsel asserts that the applicant has submitted credible affidavits from witnesses pertaining to his residence in the United States. Counsel further asserts that the applicant's credible testimony coupled with affidavits from credible witnesses is sufficient to establish his continuous unlawful presence in the United States during the requisite periods. Counsel does not submit any new evidence on 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 director's decision reveals that the director accurately set forth a legitimate basis for denial of the application. On

appeal, the applicant has not presented any evidence to overcome the director's denial. 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.