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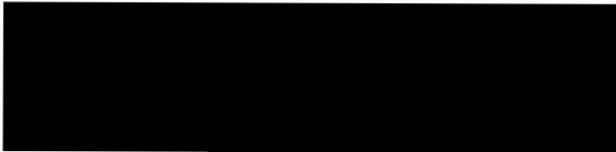
U.S. Department of Homeland Security
20 Massachusetts Ave., NW, Rm. 3000
Washington, DC 20539



U.S. Citizenship
and Immigration
Services

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FILE:

MSC-06-096-11785

Office: DETROIT

Date: SEP 05 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:

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
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, Detroit. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on January 4, 2006 (together, the I-687 Application). The director determined 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 denied the application as 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 submits a timely Form I-694 Notice of Appeal of Decision Under Section 210 or 245A. On the Form I-694, the applicant states that he is appealing the director's decision because he has children who were born in the United States and he has "been employed since 1989." The applicant also states that he would like to continue working in the United States so that he can support his family and "give them a better life." The applicant did not submit any additional evidence on appeal.

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, namely, insufficient evidence.¹ On appeal, the applicant has not presented any new evidence. The applicant fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor has he specifically addressed the basis for denial.

Beyond the decision of the director, the record of proceeding indicates that the applicant received a deportation order in absentia on October 17, 1996. Pursuant to Section 212(a)(9)(A)(ii) of the Act, the applicant is inadmissible for 10 years from the date of his departure or removal. The applicant's Form I-687 was received by U.S. Citizenship and Immigration Services (CIS) on January 4, 2006, less than 10 years after the deportation order. CIS regulations affirmatively require an applicant to establish eligibility for the benefit he or she is seeking at the time that the application is filed. *See* 8 C.F.R. 103.2(b)(1).

As the applicant presents no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(3)(iv).

¹ The AAO notes that the additional ground stated by the director – a 13-month absence that commenced in 1997 – is erroneous. The pertinent regulations do not apply to that period. Therefore, the AAO discounts and withdraws that basis for denial.

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