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U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

Li

[Redacted]

FILE:

MSC-06-047-13339

Office: HOUSTON

Date:

SEP 15 2008

IN RE:

Applicant:

[Redacted]

APPLICATION:

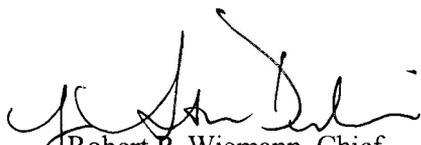
Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

[Redacted]

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 District Director, Houston. 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, in her Notice of Intent to Deny (NOID), the director stated though the applicant submitted affidavits from [REDACTED], [REDACTED] and [REDACTED], the applicant's testimony at the time of his interview before Citizenship and Immigration Services (CIS) on October 4, 2006 was not consistent with those affidavits. The director found that the discrepancies between evidence in the record and the applicant's testimony caused him to fail to satisfy his burden of proof. The director granted the applicant 30 days within which to submit additional evidence for consideration in support of his application. Because the applicant failed to respond to the NOID, he did not overcome the director's reasons for the denial of his application.

On appeal, counsel for the applicant notes that the director stated that the affidavits submitted by the applicant were not sufficient to meet his burden of proof. He states that the regulation at 8 C.F.R. § 245a.4(b)(4)(vii) allows applicants to submit affidavits in support of their applications and asserts that previously submitted documents were sufficient to satisfy the applicant's burden of proof.

It is noted that the regulation at 8 C.F.R. § 245a.4(b)(4)(vii) pertains to types of evidence that certain applicants for adjustment to lawful resident status may submit in support of their applications. 8 C.F.R. § 245a.2(d)(3)(vi)(L) is the relevant section of the C.F.R. that allows applicants for adjustment to temporary resident status to submit affidavits, or "any other relevant document" in support of their applications.

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.

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