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U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

Office: NEW YORK

Date: DEC 12 2007

MSC-05-216-10489

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. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

A handwritten signature in black ink, appearing to read "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, New York. 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 referenced the regulations at 8 C.F.R. 245a.2(d)(5), which states in pertinent part that applicants bear the burden of establishing by a preponderance of the evidence that they have resided continuously in the United States for the duration of the requisite period and at 8 C.F.R. 245a.2 (h)(1)(i), which specifies that in order to be regarded as having resided continuously in the United States an applicant must have no single absence from the United States which has exceeded forty-five (45) days during the requisite period. The director found that the applicant's travel to Bangladesh from February until August 1985 and then again from December 1986 until March 1987 both exceeded forty-five (45) days and were both during the requisite period. She noted that the applicant did not submit documentation that indicated that his return to the United States was delayed due to an emergent situation that came suddenly into being. The director also noted that the applicant had children born during the requisite period to a woman he indicated had never entered the United States. She went on to say that these children were conceived on dates that did not correspond to dates the applicant indicated he was absent from the United States. The director found that these absences indicated that the applicant did not meet his burden of establishing, by a preponderance of the evidence, that he maintained continuous residency during the requisite period. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted that the applicant submitted a letter to her in response to her NOID, she noted that this letter confirmed that the applicant was absent for more than forty-five (45) days on two occasions. She found that the letter did not overcome her reasons for denial. Therefore, she denied the application.

On appeal, the applicant states that he is unable to submit more documentation that would allow him to prove his continuous residence in the United States by a preponderance of the evidence. He states that he previously submitted affidavits from roommates. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

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.