U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: NEW YORK Date: OCT 19 2007

MSC-04-293-10617

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for Temporary Resident Status was denied by the Director, New York District Office, and 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 that the evidence submitted by the applicant in support of his claim to have entered the United States before January 1, 1982 was not credible. In saying this, the director noted a letter submitted by the applicant that indicated that on December 7, 1981 the applicant received medical services from the Winston Medican [sic] Staffing Services which the director found was fraudulent. It is noted here that this letter indicates it is signed by [redacted] in December of 1981 and shows his license number to be [redacted] However, the license information obtained by the Service indicates that this doctor was not licensed to practice medicine until February 26, 1992. The license number issued to him in 1992 was [redacted] As this doctor was not licensed and the license number shown on the document submitted by the applicant as evidence was not issued until eleven (11) years after the date shown on that document, the AAO finds that the director was correct in asserting that this document is not credible. As the director determined that he had willfully misrepresented a material fact in an attempt to procure an immigration benefit, she stated that the applicant appeared inadmissible pursuant to Immigration and Nationality Act § 212(a)(6)(C)(i). She went on to say that the applicant had not met his burden of proving by a preponderance of the evidence that he resided in the United States during the requisite period as 8 C.F.R. § 245a.2(d)(5) requires applicants to prove when applying for adjustment of status. The director granted the applicant thirty (30) days within which to provide additional evidence in support of his application. Though the director received additional evidence from the applicant in support of his application, the director found that the documentation submitted was insufficient to overcome her grounds for denial as stated in her NOID and denied his application.

It is noted here that the record contains court dispositions that detail two arrests and subsequent charges associated with those arrests. These records are not fully legible.

The first record is for an individual whose date of birth is shown as September 1, 1962 whose last name is [redacted] who lives at [redacted]. It is noted that this applicant's date of birth is shown on his Form I-687 as June 6, 1966 and his address is shown as [redacted] He has not shown that he has used the last name [redacted] The first arrest occurred on August 26, 2001 and the defendant in this case was charged under section 240, article 20 of the New York penal code, disorderly conduct. This offense constitutes a violation or infraction.

The second record of arrest an individual whose date of birth is shown as June 6, 1969 whose last name is [redacted] who lives at [redacted]. It is noted that this applicant's date of birth is shown on his Form I-687 as June 6, 1966 and his address is shown as [redacted] He has not shown that he has used the last name [redacted] This arrest occurred on December 13, 2001 and the defendant in this case was charged under section 240, article 20 of the New York penal code, disorderly conduct. This offense constitutes a violation or infraction.

It is further noted that these two violations, or infractions, alone are not cause to determine that the applicant is ineligible to adjust to Temporary Resident Status under 8 C.F.R. § 245a.2(c)(1) as they do not constitute convictions of a felony or three or more misdemeanors.

On appeal, the applicant states that he submitted additional evidence in response to the director's NOID. He goes on to assert that these letters contain testimony from individuals who claim the applicant has been residing in the United States since 1981. He states that the individuals who submitted these letters are willing to be contacted to verify information in the letters. He goes on to say that he believes these letters do satisfy his burden pursuant to 8 C.F.R. § 245a.2(d)(5) of proving by a preponderance of the evidence that he has resided continuously in the United States for the duration of the requisite period. The applicant resubmits a previously submitted letter. 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.