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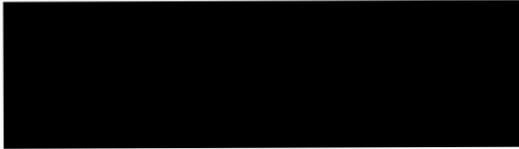
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [REDACTED]
MSC-04-322-10208

Office: NEW YORK

Date: **APR 30 2009**

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. 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.

John F. Grissom
Acting 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 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 Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director denied the application 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 in the Notice of Intent to Deny (NOID) that the applicant testified under oath during his immigration interview on July 7, 2005 that he entered the United States on August 19, 1980 and that he was absent from the United States from December 1982 to March 1983. The director also noted that the applicant's absence was in excess of the 45 days allowed during any single absence from the United States and that the applicant had failed to provide any evidence to show that his return to the United States could not be accomplished during the allowed period due to emergent reasons. In the final decision the director noted that in response to the NOID, the applicant changed the events in an attempt to explain away the inconsistencies and frivolous evidence found in the record. The director also noted that the applicant failed to provide new evidence to corroborate his claim of continuous residence in the United States. The director denied the application, finding that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts that his absence in excess of 45 days was due to the fact that his mother died and he had to remain with his father (he being the only child) in order to carry out certain rituals. If the applicant's absence exceeded the 45-day period allowed for a single absence, it must be determined if the untimely return of the applicant to the United States was due to an "emergent reason." Although this term is not defined in the regulations, *Matter of C-*, 19 I&N Dec. 808 (Comm. 1988), holds that emergent means "coming unexpectedly into being." Here, the applicant's mother's death did not come unexpectedly into being. The applicant also asserts that his asylum application was frivolous and contained incorrect information and that he had to submit the information in order to avoid deportation. The applicant does not submit any evidence on appeal. To meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.2(d)(6).

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 Form I-687 application. On appeal, counsel has not overcome the grounds stated for the denial, nor has the applicant presented additional evidence, relevant to the grounds for denial or the stated reason for appeal. **The appeal must therefore be summarily dismissed.**

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