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U.S. Citizenship
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Services

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FILE:

MSC-06-090-15111

Office: NEW YORK

Date: AUG 03 2009

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:

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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.

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, or *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 (AAO) on appeal. On appeal, counsel for the applicant mistakenly refers to the appeal of the director's decision to deny the LIFE application. The LIFE application was denied on August 20, 2006. The appeal of the denial of the Form I-687 is currently before the AAO. The appeal will be dismissed.

The director denied the application and determined that the applicant was ineligible for temporary resident status pursuant to Section 245A of the Immigration and Nationality Act (Act) due to his departure from the United States under an order of deportation on January 17, 1982.

On appeal, the applicant concedes that he left the United States on January 17, 1982 under an order of deportation. Nevertheless, counsel for the applicant claims that the applicant is eligible for the benefit sought since his 1982 departure was for less than 45 days.

Upon review, the AAO agrees with the director that the applicant is ineligible for temporary resident status because his departure in January 1982, regardless of duration, was under an order of deportation, and it interrupted the continuity of any residence in the United States he might have had during the requisite period. 8 C.F.R. § 245a.1(c)(1)(iii).

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, counsel for the applicant has inaccurately addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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.

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