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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
MSC-06-101-16891

Office: LOS ANGELES

Date: FEB 04 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 if your case was 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, Los Angeles. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-697, 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 determined that the applicant was statutorily ineligible for temporary resident status because of the applicant's multiple California felony convictions. Thus, the director denied the application, finding that the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

An alien who has been convicted of a felony or of three or more misdemeanors committed in the United States is ineligible for adjustment to Lawful Permanent Resident status. 8 C.F.R. § 245a.18(a)(1). "Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less, regardless of the term such alien actually served. Under this exception, for purposes of 8 C.F.R. Part 245a, the crime shall be treated as a misdemeanor. 8 C.F.R. § 245a.1(p).

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

The applicant represents herself on appeal.<sup>1</sup> On the Notice of Appeal (Form I-694), the applicant states that she "mailed [her] original Court Disposition papers on or about December 14, 2006." She also indicated that a brief in support of her appeal would be forthcoming. The director's decision denying her application for temporary residence is dated March 8, 2007. The Form I-694 was filed on April 11, 2007. To date, no brief has been submitted.<sup>2</sup> The AAO has reviewed

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<sup>1</sup> The Notice of Appeal (Form I-694) is signed by [REDACTED]. There is no explanation of the signatory's relationship to the applicant and the record does not contain a Notice of Representation (Form G-28). The AAO concludes that the applicant is not represented by counsel on appeal.

<sup>2</sup> The record also contains a facsimile transmission dated January 7, 2009 reminding the applicant of the briefing requirements and providing her with an additional five days to comply with further evidence. The applicant did not respond to this additional notice.

the evidence in the file. The record indicates that the applicant submitted the court documents to which she refers on the Form I-694 on December 14, 2006. The applicant does not specifically address the director's analysis of the evidence, nor does she identify any error in the final decision.

Federal regulatory provisions governing an appeal from a legalization decision by the district director state, in pertinent part, that an appeal which is filed that fails to state the reason for appeal or is patently frivolous will be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(3)(iv). (2007).

Furthermore, the AAO notes that the evidence of record clearly establishes that the applicant has three felony convictions and one misdemeanor conviction in California: a 1996 conviction for three counts of felony burglary in violation of section 459 of the California Penal Code, and a 1997 conviction for one count of misdemeanor petty theft with priors, in violation of section 666-484(A) of the California Penal Code. We agree with the director that the applicant's four criminal convictions render the applicant statutorily ineligible for permanent resident status. 8 C.F.R. § 245a.18(a)(1).

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not specifically addressed the basis for denial and she is nonetheless statutorily ineligible for the immigration benefits she seeks because of her criminal history. The appeal must therefore be summarily dismissed.

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