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

U.S. Citizenship  
and Immigration  
Services

41

FILE:

MSC: 05 239 14704

Office: HOUSTON

Date:

SEP 09 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. 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 was denied by the Director, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to respond to a February 22, 2007 Notice of Intent to Deny (NOID) requesting that the applicant submit evidence to demonstrate that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. The director stated in the NOID that the applicant's passport has an exit stamp from El Salvador on March 21, 1980; an entry stamp to Madrid, Spain, on March 22, 1980; the passport was revalidated in Madrid, Spain, on April 12, 1982; an exit stamp from Madrid, Spain, on August 27, 1982; and, several entry and exit stamps for September of 1984, September of 1985, and January of 1986. The director also stated in the NOID that the applicant testified that he worked as a cook in a restaurant in Barcelona, Spain, from 1980 until he departed Spain in August 1982.

On appeal, counsel for the applicant asserts that the director erred in denying the application because the "applicant had some departures to and from Spain in his passport" which were "innocent and brief." Counsel, however, does not provide any documentation in support of his assertion. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). There is no record of evidence to support a conclusion that the applicant entered the United States prior to January 1, 1982, and continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. Counsel does not submit any additional evidence on appeal.

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.