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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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FILE:



Office: LOS ANGELES

Date:

SEP 24 2009

MSC-05-258-10062

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:

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. 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

[REDACTED]

**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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant stated during the interview that she resided in the United States from 1981 to 1983 before going back to the Philippines due to her father's illness and to get married. The applicant further claimed she reentered the United States a year later in 1984 but left again in 1985 and did not return to the United States until 1987, more than 12 months later. Based on this testimony, the director concluded that the applicant failed to maintain continuous residence in the United States during the requisite period. As such, the director found the applicant ineligible for the benefit sought.

On appeal, the applicant submits her father's medical record certificate stating that [REDACTED] was hospitalized between October 10, 1983 and January 3, 1984 and from November 25, 1985 to June 21, 1986. She further contends that both her absences in 1983 and 1985 were due to emergent reasons as defined by the regulations. The applicant presents no other evidence to prove that the applicant entered the United States before January 1, 1982 or that she resided in the United States during the requisite period.

Although emergent reason is not defined in the regulations, *Matter of C-*, 19 I&N Dec. 808 (Comm. 1988) holds that *emergent* means "coming unexpectedly into being." In other words, the reason must be unexpected at the time of departure from the United States and of sufficient magnitude that it made the applicant's return to the United States more than inconvenient or virtually impossible. In the instant case, that was not the situation. There is no evidence to indicate that the applicant's trip outside the United States in either 1983 or 1985 was delayed by unforeseeable or unexpected reasons. No evidence has been submitted to establish that the applicant planned to leave the United States for a short period in either 1983 or 1985, but for some unforeseeable or unexpected reasons she could not timely return to the United States. The medical record certificate only provides information on the periods when the applicant's father was hospitalized. It does not explain why the applicant was unable to return to the United States within the prescribed time period to resume her residence in the United States. Therefore, the applicant's continued stay in the Philippines for 12 months in 1983 and for more than a year in 1985 would appear to have been a matter of personal choice, not a situation that was forced upon her by unexpected events.

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 addressed the grounds stated for denial, nor has she

presented additional evidence relevant to the grounds for denial or the stated reason for appeal. The appeal must therefore be summarily dismissed.

The AAO further observes that none of the evidence submitted by the applicant relates to the requisite period. Thus, the applicant has failed to meet her burden of proving by a preponderance of the evidence that she entered the United States before January 1, 1982 and that she has resided continuously in the United States throughout the requisite period. The application may not be approved for this additional reason.

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