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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

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[REDACTED]

FILE:

Office: LOS ANGELES

Date:

MAR 16 2010

MSC-07-132-10975

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.

Elizabeth McCormack

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, and is now before the Administrative Appeals Office (AAO) 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 (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 Act, and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on January 10, 2006. The director denied the application after determining that the applicant had not established by a preponderance of the evidence that he had continuously resided or had been continuously physically present in the United States for the duration of the requisite period. The director noted that the service record showed that the applicant had been convicted of multiple criminal violations. The director further noted that the applicant's approved change of plea, as ordered by the judge, was based exclusively upon his completing probation, and not for constitutional reasons. 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.

The applicant stated on his Form I-694, Notice of Appeal of Decision under Section 210 or 245A of the Immigration and Nationality Act (Act), that he would be submitting a brief and evidence within 90 days of receipt of materials processed under the Freedom of Information Act (FOIA). The record indicates that the applicant's FOIA request (NRC2009037469) was processed as of August 22, 2009. To date, there has been no brief or further evidence filed in support of the applicant's appeal. Although the applicant asserts that he disagrees with the director's determination with respect to his criminal convictions, he does not submit any evidence to substantiate his claim. 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 application. On appeal, the applicant has not presented any evidence to overcome the director's decision. The appeal must therefore be summarily dismissed.

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