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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



MSC-06-054-10460

Office: NEW YORK

Date: DEC 06 2007

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. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, 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 District Director, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because she found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. Specifically, in his Notice of Intent to Deny (NOID), issued December 16, 2005, the director of the National Benefits Center noted that the applicant failed to provide evidence: that she entered the United States before January 1, 1982 and then resided continuously in an unlawful status since her date of entry and until she was turned away by Immigration and Naturalization Services, now Citizenship and Immigration Services (CIS) or the Service, during the original legalization filing period; that she was continuously physically present in the United States from November 6, 1986 until she attempted to file for legalization during the original filing period; and that she was admissible as an immigrant. The director granted the applicant thirty (30) days within which to submit additional evidence in support of her application.

In her Notice of Decision, dated June 5, 2006, the director of the New York District office noted that the applicant submitted one (1) affidavit in response to the Service's NOID. However, she found it was not sufficient to meet the applicant's burden of proving by a preponderance of the evidence that she resided continuously in the United States for the duration of the requisite period. In saying this, the director noted that the affidavit was not submitted with proof that the affiant had direct personal knowledge of the events and circumstances of the applicant's residency. The director noted that credible affidavits include documents identifying the affiant, proof the affiant was in the United States during the statutory period, proof that there was a relationship between the applicant and the affiant and a current telephone number at which the affiant may be contacted to verify information in the affidavit. While it is noted that the affiant provided a photocopy of her New York identification card and proof that she was born in Puerto Rico and is therefore a United States Citizen as well as a telephone number at which she could be reached, she did not demonstrate proof that she had direct personal knowledge of the events and circumstances of the applicant's residency as she failed to indicate an address at which it was personally known to her that the applicant resided during the requisite period, the frequency with which she saw the applicant during that time, or whether there were periods of time during the requisite period when she did not see the applicant. Because this affidavit was not found sufficient to meet the applicant's burden of proof, the director denied the application.

On appeal, the applicant states that she submitted an affidavit previously in support of her application. She states she has a good relationship with the affiant and she asserts that it is credible. She notes that the affiant provided a telephone number at which she could be contacted. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

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.