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U.S. Citizenship
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FILE: [REDACTED]
MSC-05-189-10034

Office: NEW YORK

Date:

NOV 02 2007

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. 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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, New York District Office, and 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 her Notice of Intent to Deny (NOID), the director noted that the applicant provided testimony at the time of his interview with a Citizenship and Immigration Services (CIS) officer on March 1, 2006 that was not consistent with what he showed on his Form I-687 regarding his addresses of residence, his absences, or his places of employment during the requisite period. She further noted that the applicant indicated on his Form I-687 that he was absent from the United States from June of 1982 to December of 1983 and then from July 1986 to September of 1986. It is noted here that applicants for adjustment of status to that of a Temporary Resident bear the burden of establishing that they have continuously resided in the United States for the duration of the requisite period pursuant to the regulation at 8 C.F.R. § 245a.2(d)(5). It is further noted that the regulation at 8 C.F.R. § 245a.2(h)(1)(i) states that to have maintained continuous residence applicants must establish that they do not have a single absence that exceeds forty-five (45) days during the requisite period. Here, the applicant showed on his Form I-687 that he had two absences that exceeded forty-five (45) days. The director further noted that the applicant testified that he was physically present in Bangladesh in 1987 both during an interview with an asylum officer in 1996 and when he was in removal proceedings before an Immigration Judge in 1998. It is noted here that this is not consistent with testimony the applicant provided at the time of his legalization interview nor is it consistent with information he provided on his Form I-687 where he indicated that he was not absent from the United States in 1987. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. In denying his application, the director noted that she did receive evidence from the applicant in response to her NOID, but found that it was insufficient to overcome her reasons for denial.

On appeal, the applicant submits a Form I-694 Notice of Appeal of Decision on which he states that he believes the Service's decision was improper. He indicates that he will submit a brief in support of his appeal within thirty (30) calendar days. It is noted that the Service received the applicant's Form I-694 on May 31, 2007. As of October 30, 2007 the Service has not received a brief from this applicant. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application with his Form I-694.

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.