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**U.S. Citizenship
and Immigration
Services**

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FILE:

[REDACTED]
MSC-06-098-23670

Office: NEW YORK

Date:

OCT 23 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:

[REDACTED]

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, Director
Administrative Appeals Office

DISCUSSION: The application for Temporary Resident Status was denied by the Director of the New York District Office and that 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. The regulation at 8 C.F.R. § 245a.2(d)(5) states that the applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period. To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. 8 C.F.R. § 245a.2(d)(6). The director of the National Benefits Center stated in his Notice of Intent to Deny (NOID) that the applicant failed to submit evidence apart from his own testimony proving that he had maintained continuous residence in the United States during the requisite period, was continuously physically present in the United States from November 6, 1986 and then for the duration of the requisite period or that he was admissible as an immigrant. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. In her Notice of Decision, the director of the New York District Office noted that in response to the Service's NOID, the applicant submitted two (2) affidavits in support of his application. However, she found that there was not proof that the affiants had direct personal knowledge of the events and circumstances of the applicant's residency and she also found that the affidavits were not amenable to verification, as they did not include phone numbers at which the affiants could be contacted. The director also noted that at the time of his interview with a CIS officer on September 11, 2006, the applicant provided testimony that was not consistent with what he showed on his Form I-687 regarding his addresses of residence and his absences, casting doubt on whether the applicant continuously resided in the United States for the duration of the requisite period. She therefore found the applicant did not satisfy his burden of proof of establishing, by a preponderance of the evidence that he continuously resided in the United States for the duration of the requisite period and denied the application

On appeal, the applicant's attorney states that it is difficult to obtain affidavits and other documents in support of the applicant's application. He goes on to state that previously submitted documents were submitted in good faith. He further requests that the AAO consider approving the application for humanitarian reasons.

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. The applicant has failed to address the reasons stated for denial and has not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

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