



U.S. Citizenship
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Services

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FILE:



Office: NEW YORK

Date:

SEP 19 2007

MSC-06-076-11902

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:



SEP 19 2007

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 the matter 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 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 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 concluded the applicant did not establish that he was eligible to adjust to temporary status in accordance with the Immigration and Nationality Act (INA) § 254a. Specifically, the director cited 8 C.F.R. § 245a.2(d)(5), which states that an applicant applying for adjustment of status bears the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, is admissible to the United States under the provisions of section 254a of the INA and is eligible for adjustment of status under this section. Here, the director found that the applicant did not meet this burden. In her Notice of Intent to Deny (NOID) the director noted that documents submitted by the applicant did not consistently represent his address of residence in the United States during the requisite period. She further stated that she found indications that affidavits submitted by the applicant appeared fraudulent. The director granted the applicant thirty (30) days from the date of her NOID to submit additional evidence in support of his application. In her decision the director noted that her office received a letter from the applicant's attorney, but stated that she found that evidence submitted by the applicant, including this letter, did not demonstrate that the applicant was eligible to adjust to temporary status. Therefore, the director denied his application.

In this case, the director adjudicated the Form I-687 application on the merits. As a result, the director is found not to have denied the application for class membership.

On appeal, the applicant's attorney submits a written brief stating that asking the applicant to provide evidence that he maintained continuous residence twenty (20) years ago is unfair and that it is nearly impossible for him to submit such evidence. He goes on to say that the applicant has produced affidavits from family and friends and reiterates that it is difficult for individuals to find time to write and notarize affidavits. No additional evidence was submitted with the applicant's appeal. It is noted that though the applicant's attorney asserts it is unfair that the applicant is required to submit evidence in support of his claim of having maintained continuous residence during the requisite period, 8 C.F.R. § 245a.2(d)(6) requires an applicant to provide evidence of eligibility apart from his own testimony to meet his or her burden of proof in accordance with 8 C.F.R. § 245a.2(d)(5).

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.