

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

41

FILE:

Office: NEW YORK

Date:

SEP 24 2007

MSC-05-151-21149

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 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director  
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. [REDACTED] (E.D. Cal.) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. [REDACTED] 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 (the Act) § 254a. Specifically, she stated in her Notice of Intent to Deny (NOID) that the evidence submitted by the applicant was not sufficient to establish that he was eligible to adjust to temporary resident status. In saying this, 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 resided continuously in the United States for duration of the requisite period, is admissible to the United States under the provisions of section 254a of the Act and is eligible for adjustment of status under that section. It is noted here that 8 C.F.R. § 245a.2(d)(6) requires an applicant to provide evidence of eligibility apart from his or her own testimony to meet his or her burden of proof in accordance with 8 C.F.R. § 245a.2(d)(5). 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 stated that the additional evidence submitted by the applicant in response to her NOID did not overcome her reasons for denial. She went on to say that though the applicant submitted three (3) affidavits in support of his claim of having maintained continuous residence during the requisite period, she did not find those affidavits to be credible as the applicant had not provided proof that the affiants were in the United States during the statutory period, nor had he provided phone numbers for the affiants at which they could be contacted to verify information provided in their affidavits. Therefore, the director found that the applicant did not meet this burden of establishing, by a preponderance of the evidence, that he maintained continuous residence in the United States during the requisite period and denied his application.

On appeal, the applicant submits a Form I-694 on which he provides telephone numbers for the affiants from whom he submitted affidavits from previously and asserts that the affidavits he submitted were credible. On his Form I-694, the applicant indicates that he will also submit a brief within thirty (30) calendar days. However, the applicant's Form I-694 was submitted on April 5, 2006 and as of September 17, 2007, no such brief has been received by the Service.

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



Page 3

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.