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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:



OFFICE: NATIONAL BENEFITS CENTER

Date APR 17

MSC 06 004 10495

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the National Benefits Center. 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, National Benefits Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director denied the application, finding that the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, counsel for the applicant asserts that the director failed to advise the applicant what documentation he needed to submit to support his claim. Counsel's argument, however, is entirely without merit in light of the various regulatory provisions that provide a number of examples of the types of documents an applicant may provide to support his claim. *See* 8 C.F.R. § 245a.2(d). Contrary to counsel's apparent misconception, the director is under no obligation to advise the applicant as to how to meet his statutory burden of proof. Rather, this duty rests with counsel who has been hired for this specific purpose. The director's duty, on the other hand, is merely to assess the documentation that is before him for review. In the present matter, the applicant failed to provide any documentation to support his claim. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Moreover, based on the applicant's history of residences, which is listed in No. 30 of the applicant's Form I-687, the applicant indicated that his earliest residence in the United States was in 1983. As the applicant did not provide any residential addresses prior to 1983, he thereby implied that he was not residing in the United States as of January 1, 1982, the commencement date of the statutory period.

Regardless, 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 counsel for the applicant properly 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.