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U.S. Citizenship  
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FILE:



Office: NEW YORK

Date:

DEC 11 2008

MSC 06 040 11154

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting 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, New York. The decision is now before the Administrative Appeals Office (AAO) 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 (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet on November 9, 2005. Upon review, the director determined that insufficient evidence had been presented to establish eligibility under section 245A of the Act. On November 28, 2005, the director issued a notice of intent to deny (NOID) stating that the applicant had failed to provide documentation establishing his eligibility for temporary resident status under section 245A of the Act. Specifically, the applicant had failed to provide additional evidence to establish that he first entered the United States before January 1, 1982 and thereafter resided continuously in the United States in an unlawful status for the duration of the requisite period. The director also determined that the applicant had not established that he was continuously physically present in the United States for the requisite period. The applicant was granted 30 days from the date of the notice to submit additional evidence in response to the NOID. In response to the NOID on December 16, 2005, the applicant submitted a statement from [REDACTED] his own sworn affidavit regarding his entry and continuous residence in the United States and a partial copy of his passport. The director denied the application, finding that the applicant had not provided credible evidence to establish eligibility under section 245A of the Act.

On appeal, the applicant states that he submitted credible evidence of his continuous presence in the United States through the sworn affidavit of [REDACTED]. The applicant resubmits this same documentation with his appeal.

The statement from [REDACTED] gives his place and date of birth and address in the United States. [REDACTED] states that he first met the applicant in September 1981 in New York at a laundromat. [REDACTED]'s statement does not contain any other factual information concerning the applicant's entry and residency in the United States. The statement neither confirms the applicant's entry into the United States in September 1981 nor his continuous residency in the United States. [REDACTED] fails to explain the circumstances surrounding their initial meeting and how they developed and maintained a friendship over the requisite period. [REDACTED] fails to specify the frequency with which he saw and communicated with the applicant during the requisite period and indicate any other details that would lend credence to the claimed acquaintance with the applicant and the applicant's residence in the United States during the requisite period. To be considered probative and credible, witness affidavits or statements must do more than simply state that the person knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from the claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the

facts alleged. Upon review, the AAO finds that the statement does not contain sufficient detail to establish its credibility. The statement provided by [REDACTED] will be given minimal weight.

Moreover, the applicant stated in his interview conducted on April 19, 2006 that he first entered the United States at JFK airport on September 17, 1981 by using someone else's passport and visa. The applicant stated in his sworn affidavit dated December 6, 2005 that he first entered the United States in September 1981 through the United States-Canadian border without inspection. The contradictions are material to the applicant's claim in that they have a direct bearing on the applicant's entry and residence in the United States during the requisite period. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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 on appeal provided no new evidence or explanation to overcome the reasons for denial of his application.

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 and has not addressed the grounds stated in the director's decision. The appeal must therefore be summarily dismissed.

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