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U.S. Citizenship
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Services

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FILE:

MSC-05-006-10070

Office: NEW YORK

Date:

DEC 24 2008

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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 "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, or *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, and 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 irrelevant, and thus was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman settlement agreements. The director also found some indications of fraud in the application.

On appeal, the applicant asserts he did not commit any fraud and further states that his application should be granted. No other evidence or explanation, however, is provided to overcome the reasons for denial of his application.

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.

Beyond the decision of the director, the applicant appears to be inadmissible, and thus ineligible for temporary resident status as the record shows that he is diagnosed with HIV/AIDS positive, for which he is currently undergoing treatment. Pursuant to Section 212 of the Immigration and Nationality Act (INA), any alien who is determined to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome (AIDS), is inadmissible. While a discretionary waiver of inadmissibility is available “for humanitarian purposes, to assure family unity or when it is otherwise in the public interest” pursuant to INA § 245A(d)(2)(B)(i); 8 U.S.C. § 1255a(d)(2)(B)(i); 8 C.F.R. § 245a.18(c), the applicant has failed to submit such a waiver. Thus, the application may not be approved for this additional reason.

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