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U.S. Citizenship  
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Services

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FILE:

MSC-05-320-11567

Office: NEW YORK Date: NOV 21 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. 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.

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 Field Office Director, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because he found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman settlement agreements, noting that the evidence submitted lacked sufficient detail to establish that the applicant entered the United States prior to January 1, 1982 and resided continuously in the United States throughout the relevant period.

Specifically, the director noted that the applicant submitted two employment letters in support of her continuous residency during the requisite period. The first letter, from National Bank of Nigeria, dated April 22, 1988 stated that the applicant was employed at the bank from November 1986. The director noted that this was not credible since the applicant was only 14 years old in 1986.

The second letter, dated July 24, 1989, was signed by [REDACTED] of Vertex American, Inc. In this letter, [REDACTED] indicates that the applicant was employed by the company as a cleaner from November 1981 until December 1983. The director noted that like the previous letter, this letter was not credible since the applicant was only 9 years old in 1981. The director indicated that the applicant failed to submit any additional information or evidence that would establish his eligibility for the benefit sought. Accordingly the application was denied on July 18, 2006.

On appeal, the applicant stated:

I believe that it is grossly unfair to deny my case after submitting several authentic documents to you starting from the LIFE act and the CSS/LULAC which I am sure I am eligible to apply for. Unfortunately, I have not other documents to submit to you. I am wondering why you should deny my application due to production of additional document. You stated in your previous letter of intent that you misplaced my file. I replied that this misplacement should be due to computerising record keeping. You never say anything about the missing file except to deny my application.

In response to the applicant's assertion that CIS "misplaced" her file, the AAO has conducted a *de novo* review, evaluating the sufficiency of the evidence in the record according to its probative value and credibility as required by the regulation at 8 C.F.R. § 245a.2(d)(6). This review includes both the evidence that the applicant submitted in support of the instant application, and the evidence submitted with the LIFE Act application filed on May 29, 2002. This application was subsequently denied on February 13, 2003 and the appeal was dismissed by the AAO on December 31, 2003.

The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) (“On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”); *see also, Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO’s *de novo* authority has been long recognized by the federal courts. *See, e.g. Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). Following *de novo* review the AAO has determined that the applicant’s assertions on appeal are without merit. The record of proceedings does not include any indication that CIS misplaced the applicant’s file. Furthermore, the applicant did not submit any different or additional information or evidence in conjunction with his Form I-687 application. The only evidence contained in the file was submitted with the applicant’s previous LIFE Act application. No additional evidence was submitted on appeal.

The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application or to further support his claims of continuous residency for the requisite period. 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 addressed the grounds of denial or submitted any additional evidence. The appeal must therefore be summarily dismissed.

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