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U.S. Citizenship
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FILE: [REDACTED]
MSC-05-011-10359

Office: FRESNO

Date: OCT 31 2008

IN RE: Applicant: [REDACTED]

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. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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 Field Office Director, Fresno and that 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. Specifically, the director noted that the applicant had not submitted sufficient evidence of his continuous residency for the requisite period and that he had provided inconsistent testimony regarding the frequency of his departures from the United States during the statutory period during his March 10, 2006 interview with Citizenship and Immigration Services (CIS). The director denied the case, noting that the credibility of the applicant's oral testimony and all supporting affidavits was significantly diminished by the inconsistencies noted.

On appeal, through counsel, the applicant indicates that "the appellant was present in the United States for the statutory period and made only one trip to go to Canada. All other trips were made after the year 1988 which is after the statutory period. The appellant did not list these dates in his application as he assumed that these were not consequential as they were outside the statutory period of his eligibility . . . at no time was it the intent of the applicant to give false testimony in conjunction with this application."

The applicant failed to address the director's concerns regarding the paucity and credibility of the evidence submitted in support of the applicant's continuous residency for the statutory period. Furthermore, the applicant did not submit any evidence of his departures which would resolve the inconsistent testimony noted.

Since the applicant has failed to meet the burden of proof by a preponderance of the evidence that he resided continuously in the United States for the requisite period, the appeal will be dismissed.

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 each of 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.