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**U.S. Citizenship
and Immigration
Services**

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FILE:

MSC-06-098-11985

Office: LOS ANGELES

Date: SEP 05 2008

IN RE:

Applicant:

APPLICATION:

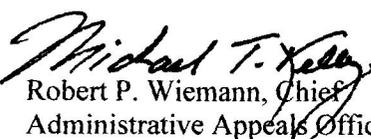
Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. 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.

for 
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 District Director, Los Angeles District. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily 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 January 6, 2006 (together, the I-687 Application). The director determined that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period, specifically noting the applicant signed a sworn statement indicating that she entered the United States in April 1981, left the United States in 1986, and returned in 1989. The director denied the application as the applicant had not met her burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

The director based her denial of the application on her finding that the applicant failed to establish by a preponderance of the evidence that she resided in the United States for the requisite period. The director noted the following factual basis for her decision:

You were interviewed on November 9, 2006. You testified under oath, orally and in writing, that you came to the United States in April of 1981. You stated that you left the U.S. in 1986 and returned in 1989. You further stated that the first time you applied for legalization was in 1989.

On appeal, the applicant submitted a timely Form I-694 Notice of Appeal of Decision Under Section 210 or 245A. On the Form I-694, the applicant states that she entered the United States in April 1981 and lived continuously in the United States "with only four absences." The applicant claims to have left the United States for 30 days in 1986, for 40 days in 1987, for 33 days in 1988, and for 42 days in 1989. The applicant asks that the absences be waived and that temporary residence be granted.

The sworn statement to which the director On November 9, 2006 the applicant made the following sworn statement in a Record of Sworn Statement in Affidavit Form (Form I-215W):

First time I enter to the U.S.A April 1981.

The first time I left the U.S.A. 1986 to Mexico vacation.

I return on 1989 to the U.S.A.

The first time try to inlegalicion [sic] 1989.

The record does not contain any statement or notes from the officer who interviewed the applicant in November 2006.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant claims that she was only absent from the United States on four occasions as stated above. However, the applicant does not explain or address the contrary sworn-statement information upon which the director based her decision.

On appeal, the applicant has not presented additional evidence. The applicant fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor has she specifically addressed the basis for denial. As the applicant presents no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(3)(iv).

Beyond the decision of the director, the AAO notes that the applicant has stated on several occasions that she first entered the United States in April 1981. However, the record of proceeding contains an immunization record with the applicant's name and date of birth indicating that the applicant received vaccinations from the Orange County Public Health Department in March 1975 and April 1976. The record of proceeding contains no explanation for this inconsistency. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. See *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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