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U.S. Citizenship  
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Services

41

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FILE:



Office: CHICAGO

Date:

SEP 10 2008

MSC-06-090-10631

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:



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.

*for* *Michael T. Kelly*  
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, Chicago. 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 December 29, 2005 (together, the I-687 Application). The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period, specifically noting that the director issued a notice of intent to deny on December 18, 2007. The director denied the application as the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

Counsel submits a timely Form I-694 Notice of Appeal of Decision Under Section 210 or 245A and indicated that he would submit additional evidence within 30 days. On appeal, counsel states that the director's decision "was so devoid of analysis that [the applicant] is not able to rebut that decision on appeal." Counsel also states that the director "erred in denying the applicant's application as he clearly proved his physical presence under a preponderance of the evidence standard." On August 8, 2008, the AAO sent a facsimile to counsel requesting the additional evidence mentioned on the Form I-694. On August 14, 2008, counsel responded by facsimile that he did not file additional evidence as mentioned on the Form I-694. As of this date, the AAO has not received any additional evidence from counsel or the applicant. Therefore, the record is complete.

In adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. As noted in the director's decision, the director denied the applicant's previous Form I-485, Application to Register Permanent Resident or Adjust Status and the applicant's subsequent appeal was dismissed by the AAO. The AAO notes that much of the evidence submitted in the instant case was previously reviewed by the director in the prior Form I-485 application. In denying the Form I-485 application, the director previously noted that the evidence submitted was not sufficient to establish that the applicant had been present during the requisite period. The AAO agrees with the director that the evidence submitted by the applicant has not established that he is eligible for the benefit sought.

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. In the decision, the director noted that she had previously issued a notice of intent to deny (NOID) the applicant's Form I-687 application. In her NOID, the director stated the applicant

“submitted sufficient evidence to establish [his] presence in the United States after 1988.” The director also stated that the applicant submitted several affidavits in order to “establish [his] presence in the United States between 1981 and 1988.” However, the director noted that none of the affidavits described a real relationship with the applicant. Furthermore, the director also noted that the employers that applicant claims employed him during the requisite period are no longer in business. On appeal, counsel has not presented any new 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 he 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).

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