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U.S. Department of Homeland Security
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**U.S. Citizenship
and Immigration
Services**

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FILE: [Redacted]
MSC 05 193 11998

Office: NEW YORK

Date:

APR 01 2009

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. 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 Director, New York. That decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant did not establish that he continuously resided in the United States for the duration of the requisite period. Specifically, the director noted that the applicant was served with a Notice Of Intent To Deny (NOID) and that the evidence submitted by the applicant in response thereto was insufficient to overcome the grounds for denial set forth in the NOID. The director noted that the applicant changed “events to explain away the inconsistencies and the frivolous evidence found during the review.” The director determined that the applicant did not meet his burden of proof and did not establish that he resided in the United States prior to January 1, 1982 and continuously from January 1, 1982 through May 4, 1988. The director further stated that the evidence of record did not establish that the applicant was “front desked” and precluded from filing for legalization because he had traveled outside the country without advance parole during the requisite period. The director, however, adjudicated the claim not on the basis of the applicant’s class membership, but on the basis that the applicant had not established his continuous residence in the United States during the requisite period. By adjudicating the application on its merits, the director treated the applicant as a class member.

On appeal, counsel submits a brief and an affidavit from the applicant. Neither counsel’s brief nor the applicant’s affidavit, however, addresses the basis of the director’s denial, that the applicant had not continuously resided in the United States for the duration of the requisite period. Counsel, and the applicant, state simply that: the applicant qualifies as a class member; the applicant apologizes for any mistakes he made; the applicant is a law-abiding Hindu person who has been living in the United States for a long period of time; and the applicant should be allowed to live in this country.

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. The applicant did not specifically address the basis of the director’s denial nor did the evidence submitted on appeal address the basis of the director’s denial. The appeal must therefore be summarily dismissed.

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