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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529 - 2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: DALLAS

Date: APR 24 2009

MSC-06-082-10028

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.


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, or *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 of the Dallas office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be 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 (LULAC) Class Membership Worksheet. The director denied the application because she found that 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 determined that the applicant failed to establish that he had continuously resided in the United States in an unlawful status during the requisite period, due to applicant's deportation from the United States on May 19, 1984.¹ An alien is barred from proving that he or she resided continuously in the United States during the requisite time period, if during that period the alien was outside the United States as a result of a departure under an order of deportation. Section 245A(g)(2)(B)(i) of the Act, 8 U.S.C. §1255(a)(g)(2)(B)(i). There is no waiver of this statutory prohibition.

In addition, the director determined that the applicant failed to establish that he is eligible for class membership pursuant to the terms of the CSS/Newman settlement agreements because applicant was not discouraged from filing during the eligibility period of the legalization program. Applicant had previously filed an application for legalization, during the original filing period, which was denied.

On appeal, the applicant asserts that he has been residing in the United States since before 1982, that he is a person of good moral character and that his departure would result in extreme hardship to his spouse and children.

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 stated for denial, nor has he presented additional evidence relevant to the grounds for denial or the stated reason for appeal. The appeal must therefore be summarily dismissed.

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

¹ Applicant was subsequently ordered deported in absentia on October 28, 1985.