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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: [REDACTED]
MSC-06-069-11576

Office: HOUSTON

Date:

AUG 07 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:

SELF-REPRESENTED

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

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, Houston. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant had failed to meet his burden of proving by a preponderance of the evidence that he entered the United States before January 1, 1982 and had thereafter resided continuously in the United States until the date of filing the application. Specifically, the director noted that the applicant had provided sworn testimony inconsistent with the evidence submitted and that the affiant's testimony contained discrepancies.

On appeal, the applicant states that he has never received the director's notice of intent to deny (NOID). The applicant also contends that the director has erroneously denied the application by failing to notify him of his right to appeal the denial of his class membership to a Special Master.

Upon review, the AAO finds that the director adjudicated the application on its merits, thereby treating the applicant as a class member. The appeal is properly before the AAO. Additionally, the record shows that the director's NOID was mailed to the applicant's address of record and was not returned to the sender. The AAO agrees with the director that the evidence submitted, when considered together with the applicant's testimony, does not establish by a preponderance of the evidence that the applicant has resided in the United States continuously since before January 1, 1982 and throughout the requisite period. Further, no additional evidence has been submitted to resolve the inconsistencies in the record as noted by the director.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the application. *Id.* at 591.

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 credible evidence relevant to the stated grounds for denial. The appeal must therefore be summarily dismissed.

Further, the record shows that the applicant was among a group of people arrested on January 14, 1998 for entering the United States without any visa, passport, or other valid documentation. On

January 26, 1998 an immigration judge granted the applicant's request for voluntary departure on or before February 9, 1998 with an alternate order of deportation should he fail to depart as required. The applicant failed to leave the United States as ordered. The AAO finds that the applicant is inadmissible and thus, ineligible for temporary resident status. Section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii); Section 245A(a)(4) of the Act, 8 U.S.C. § 1255a(a)(4). The application may not be approved for this additional reason.

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