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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: NEW YORK

Date:

AUG 21 2009

MSC 05 215 11274

IN RE: Applicant:



APPLICATION: Application for Temporary Resident Status under 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. 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) on 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) on February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the director in New York City. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed.

On August 2, 2007, the director issued a Notice of Decision denying the application on the ground that the record clearly established the applicant was not continuously resident in the United States during the requisite time period to qualify for temporary resident status (in accordance with section 245A(a)(2) of the Immigration and Nationality Act (Act); the regulation at 8 C.F.R. § 245a.2(b)(1); as well as the CSS Settlement Agreement, paragraph 11 at page 6, and the Newman Settlement Agreement, paragraph 11 at page 10). The director found that the applicant's own story – that he initially came to the United States in July 1981, returned to his native Mali in November 1986, and did not come back to the United States until November 2000 – demonstrated that he was not continuously resident in the United States from before January 1, 1982 through May 4, 1988, as required under the Act. The director also found that the applicant had not shown any emergent reasons (unexpected events outside of his control) to be the cause of his extended absence from the United States.

The applicant filed a timely appeal (Form I-694). On the appeal form the applicant checked a box indicating that his written brief or statement was attached. He made no further entry in the space reserved to summarize the reasons for the appeal. The only materials attached to the appeal form, however, aside from a copy of the Notice of Decision, are two affidavits by the applicant and a friend, both of whom reiterate the story that the applicant returned to Mali from the United States in the fall of 2006 and did not come back to the United States until late 2000. Neither of the affiants offered any further explanation for the applicant's lengthy stay in Mali. Thus, no new legal argument has been submitted in support of the appeal, nor any additional evidence that the applicant meets the legal requirement of continuous unlawful residence in the United States during the entire statutory time frame of before January 1, 1982 to May 4, 1988.

As provided 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 shows that the director accurately set forth a legitimate basis for denial of the application. On appeal the applicant has not addressed the specific basis for denial, and has not presented any additional evidence of his continuous unlawful residence in the United States during the requisite period (before January 1, 1982 to May 4, 1988) to qualify for temporary resident status in accordance with section 245A(a)(2) of the Act. The appeal must therefore be summarily dismissed.

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