



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
MSC-05-295-11117

Office: MIAMI

Date: DEC 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:

[REDACTED]

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.

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

The director denied the application because he found 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 noted that the applicant testified during her September 12, 2006 interview with United States Citizenship and Immigration Services (USCIS) that she came to the United States in 1981 from Canada, left in 1983 and then came back in 1986 through Canada. The director further noted that the evidence contained in the record lacked specificity and contained several material inconsistencies. One of the affiants, [REDACTED] indicated that the applicant did not move to the United States until 1987. Noting these inconsistencies and the paucity of credible evidence in the record which would establish the applicant's eligibility for the benefit sought, the director denied the application on November 1, 2006.

On appeal, the applicant indicates that she did not begin residing in the United States until 1987, making her ineligible for adjustment to temporary resident status. She asserts that she is eligible for temporary resident status as the derivative spouse of her husband, [REDACTED]. However, neither the CSS/Newman Settlement agreement, nor the regulations permit applicants to obtain temporary resident status as a derivative spouse. [REDACTED] must establish her independent eligibility for the benefit sought, including her continuous unlawful residence for the entire relevant period. As she has not established this, her appeal will be summarily dismissed.

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 presented additional evidence, and she has provided further testimony which disqualifies her from eligibility. The appeal must therefore be summarily dismissed.

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