identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

L1

[redacted]

FILE: [redacted] Office: SEATTLE Date: FEB 0 4 2009
MSC-05-231-12107

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. 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, Seattle, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The applicant must establish entry into the United States before January 1, 1982, and continuous residence in the United States since such date through the date the application is considered filed pursuant to the CSS/Newman Settlement Agreements. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

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 Class Membership Worksheet, on May 19, 2005. On March 19, 2007, the director denied the application after determining that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director noted in the Notice of Intent to Deny (NOID) and in the final decision that the applicant submitted a copy of his Form I-95A, which indicated his entry into the United States as a crew member in November 1980 or November 1981. The director further noted that non-immigrant crewmen are transient in nature and are only given 29 days in the United States before they must depart the United States. The director concluded that the document fails to establish the applicant's continuous residence and continuous physical presence in the United States during the requisite period. The director noted that the affidavit from [redacted] only established that the applicant was in Canada from November 30, 1987 through December 28, 1987, and failed to establish any residence or physical presence, on the part of the applicant, in the United States. The director also noted that the applicant submitted a number of documents that were dated outside the requisite period, and therefore, were of no probative value to establish the applicant's eligibility. The director noted that the affidavits and evidence submitted were not credible, had no probative value, and were not amenable to verification. The director noted in the decision that the affidavit from [redacted], submitted in response to the NOID, was inconsistent with statements made by the applicant on his Form I-687 application concerning the applicant's residency in California, and that the affiant failed to detail his relationship with the applicant. The director denied the application, finding that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts his claim of eligibility for temporary resident status. The applicant states that his Form I-95A and other evidence submitted are sufficient to establish his presence in the United States since November 1981. The applicant does not submit any evidence on appeal.

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 director's decision reveals that the director accurately set forth a legitimate basis for denial of the Form I-687 application. On appeal, the applicant has not provided any evidence to overcome the director's decision. Nor has he specifically addressed the issues raised by the director. The appeal must therefore be summarily dismissed.

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