

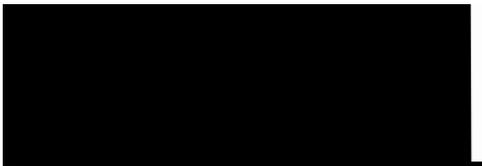
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 05 337 11382

Office: MOUNT LAUREL

Date:

FEB 17 2009

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.

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, Mt. Laurel, New Jersey, and is now before the Administrative Appeals Office (AAO), on appeal. The appeal will be dismissed.

The director denied the application because the applicant did not establish that she continuously resided in the United States for the duration of the requisite period. It is noted that the record contains the applicant's notarized statement dated December 7, 2005 in which she states that she was present in the United States from prior to January 1982 but that she traveled back home to Guinea in 1984 and did not return with her family until 1988.

The body of the applicant's Form I-694, Notice of Appeal of Decision Under Section 210 or 245A reads, in its entirety:

The District Director erred in denying the respondent's application (form I-687) based on CSS Settlement agreement filed with the US District Court (Eastern District of California) in January 2004 or the Newman (Lulac) Settlement agreement filed with the US District Court (Central District of California) in February 2004. The respondent is eligible for the programme. The respondent is trying to obtain affidavits and other documentary evidence to substantiate her claim. She is requesting ninety (90) days to submit the additional evidence. The C.I.S. officer failed to consider all evidence in support of [REDACTED] application. Thank you.

The applicant failed to specifically address the director's analysis of the evidence, contradictions between the applicant's assertions and the evidence, the failure to submit requested evidence, and did not furnish any additional evidence.

On November 20, 2008, a facsimile was sent to counsel noting that she had indicated on the Form I-694 that she would be submitting a separate brief and/or evidence to the AAO and that the brief had not been received by AAO. Counsel was provided 5 business days to submit any previously forwarded brief along with evidence of the date it was originally filed with this office. Counsel sent a late response dated January 14, 2008. However, no brief was forthcoming and counsel merely provided an affirmation from the applicant dated December 17, 2008.

The regulations do not allow an applicant an open-ended or indefinite period in which to supplement an appeal once it has been filed. Therefore, the AAO facsimile is not and should not be construed as requesting the applicant or his counsel to submit a late brief and/or evidence in response to the request. As counsel's submission consists of a document that was furnished well after the stipulated five business day time period expired on November 30, 2008, the submitted information shall not be considered on appeal.

As stated 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 reveals that the director accurately set forth a legitimate basis for the denial of the application. On appeal, the applicant has not presented additional evidence or specifically addressed the basis for denial.

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