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U.S. Department of Homeland Security
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Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC **IPY**

LI

[REDACTED]

FILE: [REDACTED]
MSC 04 349 10871

Office: NEW YORK

Date: **JAN 30 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:

[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.

A handwritten signature in black ink, appearing to read "J. 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, New York, New York. The decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant did not establish that he continuously resided in the United States for the duration of the requisite period. In so finding, the director noted:

On February 12, 1996, you signed a record of a sworn statement which you certified to be true and correct. You were trying to reenter the United States from Colombia. The ADIT stamp [REDACTED] that you submitted on February 12, 1996, was deemed to be fraudulent. You stated that you paid \$4000 in cash to someone who claimed to be an Immigration Officer in order to obtain this. You were asked how long you had lived in the United States and you replied "about 10 years." You stated that after you come to the United States about 10 years ago, that you left and went to Colombia for 6 months. You withdrew your application for admission and returned to Colombia.

On August 18, 1981, you were issued an Order to Show Cause which showed that you had illegally entered the United States on 8/10/1986, at or near San Ysidro, California.

On August 18, 1991, you were arrested in Champlain, New York after you were denied entry to Canada. You made a false claim to United States citizenship. On Form I-213 Record of Deportable Alien you claimed to have been self-employed in home improvements at \$6 per hour from 1987 to the present.

Question number 32 of the Form I-687 shows no claimed absences.

On October 20, 2005, you signed a record of a sworn statement which you certified to be true and correct. You stated that you left the United States for the first time in the winter of 1986 to Colombia to visit relatives and that you returned after 2-3 months. This represents an absence of over 45 days. You are ineligible per 8 CFR 245a.2(h)(1)(i).

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

We believed that USCIS used the wrong standard of review in deciding this case. The proper standard of review is the preponderance of the evidence and it is our position that under the standard of review [REDACTED] has met his burden.

Counsel argues that the documentation that the applicant has submitted contradicts the assertions in the Notice of Decision and conclusively establishes that the applicant has met the burden the law imposes upon him. Counsel states that with reference to the credibility of the affidavits submitted, there is case law providing that in cases such as this the evidence should be viewed in the light favorable to the alien.

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

The record reflects that on February 12, 1996, the applicant falsely represented himself to be a lawful permanent resident to gain admission into the United States from Columbia and that on August 18, 1991, he falsely represented himself to be a citizen of the United States to gain admission into this country from Canada. Beyond the decision of the director, the applicant is ineligible for temporary resident status due to his inadmissibility for his misrepresentations under sections 212(a)(6)(C)(i) and (ii) of the Immigration and Nationality Act. Consequently, the director's decision is affirmed for this additional reason.

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. The appeal must therefore be summarily dismissed.

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