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U.S. Citizenship  
and Immigration  
Services

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41



FILE:

MSC 06 076 10758

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:



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, New York. The decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application after determining that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director noted that in response to the Notice of Intent to Deny, the applicant resubmitted evidence from the same persons who provided statements already contained in the file. The director found that no one claimed to have knowledge of her entry and re-entry into the United States prior to January 1, 1982 and May 4, 1988.

On appeal, counsel states that the applicant submitted three statements from [REDACTED] and with copies of money transfer receipts from 1987 to the present along with a bank passbook which was opened in 1986. Counsel argues that the applicant has submitted sufficient evidence to establish her continuous residence in the United States since before January 1, 1982.

Although asserted by counsel on appeal, money transfer receipts from 1987 to the present along with a bank passbook which was opened in 1986 were not submitted by the applicant for the record. It is noted that the assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988).

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 to overcome the director's decision. Nor has he 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.