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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEW YORK

MSC 05 095 10008

Date:

JAN 30 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:

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

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Act, and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on January 3, 1995. In her Notice of Intent to Deny dated August 17, 2007, the director requested additional evidence and noted that on July 26, 2005, the applicant was interviewed in connection with his Form I-687. The director stated that at the time of his interview, the applicant indicated that he first entered the United States with his uncle at JFK airport on a visa using his uncle's passport contained both his and his uncle's picture(s). The director noted that the applicant submitted no evidence of such an entry. The director also stated that at his interview, the applicant averred he never left the United States between the statutory periods of January 1, 1982 through May 4, 1988 other than to go to Canada for a visit and then return in March 1987. 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 body of the applicant's Form I-694, Notice of Appeal of Decision Under Section 210 or 245A reads, in its entirety:

I was out of the city the time I get back they all ready send back to you. So I do not receive your letter from post office.

I will complete this form with support document to accept my application.

I would like to keep my immigration status.

On appeal, the applicant states that he has submitted a "support document" with his appeal. This evidence consists of a notarized statement from A [REDACTED] dated July 11, 2005, who provides the applicant's current address and states he had known him since 1981 as a friend. This statement does not supply enough details to lend credibility to an at least 23-year relationship with the applicant. For instance, the statement does not indicate how [REDACTED] dates his initial meeting with [REDACTED] how frequently he had contact with him or how long he had personal knowledge of the applicant's presence in the United States.

It is noted that the applicant's Form I-687 lists no residences in this country prior to April 1999 and shows no employment for him in this country prior to January 3, 1995, the date the application was filed. At his interview, he indicated that he stayed in a hotel in New York from 1981 to 1985 and from 1985 to 1989.

An applicant for temporary resident status must establish entry into the United States before January 1, 1982, and continuous residence in this country in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Act (the Act), 8 U.S.C. § 1255a(a)(2). The applicant must also establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

Upon a *de novo* review of all of the evidence in the record, the AAO agrees with the director that the evidence submitted by the applicant has not established that he is eligible for the benefit sought.

Therefore, based upon the foregoing, the applicant has failed to establish by a preponderance of the evidence that he has continuously resided in an unlawful status in the United States for the requisite period as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M*, 20 I&N Dec. 77, 79-80 (Comm. 1989). The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

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