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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:

MSC-06-084-12413

Office: LOS ANGELES

Date: **MAR 03 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:

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, Los Angeles, 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. 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 the applicant stated that she was absent from the United States from August 1983 to December 1983, which exceeded the forty-five (45) day allowance for any single trip outside the United States. 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 that her B-2 visa shows that she was absent from the United States in 1983 and 1984, but that she was never absent for longer than 2 to 3 days during each trip. **The applicant resubmits a partial copy of her B-2 visa on appeal. There is no indication from this evidence the length of the applicant's absence from the United States.** It is noted that during the applicant's immigration interview on April 4, 2006, she testified that she was absent from the United States from early May 1983 to July 17, 1983, and on her Form I-687 application at part #32 she stated that she was absent from the United States from August 1983 to December 1983. Although the applicant claims that she was absent from the United States in 1984, she failed to list such absence on her Form I-687 application at part #32. These unresolved inconsistencies cast doubt on the applicant's proof. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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 decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not overcome the issues raised by the director, nor has she

presented new evidence relevant to the grounds for denial or the stated reason for appeal. The appeal must therefore be summarily dismissed.

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