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20 Mass. Ave., N.W., Rm. 3000
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**U.S. Citizenship
and Immigration
Services**

[REDACTED]

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FILE: [REDACTED]
MSC 06 084 12789

Office: NEW YORK Date:

MAR 16 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:

[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 forwarded to the U.S. Citizenship and Immigration Services National Records 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 if the matter was remanded for further action, the record of proceedings was returned to the office that originally issued a decision in your case, and 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, 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 Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established that he had continuously resided in the United States throughout the statutory period. In the notice of decision, the director repeated the following point made in the notice of intent to deny: she determined that because the applicant's daughter, [REDACTED] was born in Colombia in August 1984 and because the applicant had not submitted any form of evidence to support his claim that [REDACTED]'s mother was residing in the United States until the end of 1983 that a preponderance of the evidence indicated that [REDACTED] mother was not in the United States during 1983; thus, the applicant must have been living outside the United States at least during the period that [REDACTED] was conceived in 1983. The director indicated that this was not consistent with claims that the applicant made on the Form I-687 that he was in the United States throughout all of the statutory period, except for one month in 1988. The director found that this undermined the applicant's claim of continuous residence in the United States throughout the statutory period. The director denied the application, finding that the applicant had not met his burden of proof and was, thus, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, as in the rebuttal, the applicant failed to submit any affidavits, statements or other evidence to support his claim that [REDACTED] mother was residing in the United States during the period in 1983 that she became pregnant, and the applicant did not offer an explanation as to why he did not provide such evidence. The applicant only repeated through counsel his claim that [REDACTED] mother was residing in the United States during 1983. In the rebuttal and on appeal he indicated through counsel that the director had asked for evidence that is impossible to produce, without stating more. The applicant indicated that in denying the application, the director did not properly consider the evidence submitted. The applicant did not allege any specific legal or factual error in the director's decision and he did not submit additional evidence on appeal. As of the date of this decision, no additional evidence has been submitted. The AAO will consider the record complete.

Any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. 8 C.F.R. § 103.3(a)(3)(iv). A review of the notice of decision and the notice of intent to deny reveals that the director set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence and has not addressed the basis for denial. The appeal must therefore be summarily dismissed.

In addition, the AAO notes that on the Form I-687 which the applicant signed under penalty of perjury on December 4, 1989, he indicated that he first entered the United States on January 25, 1981 and that his address from 1981 through 1986 was [REDACTED] Dover, New Jersey. The record also includes the statement of [REDACTED] which initially stated that the applicant resided at her leased property at [REDACTED], Dover, New Jersey from "1986 through 1988"; then, the years listed were altered to read "1980 through 1986". Yet, on the statements of [REDACTED] and [REDACTED] in the record, each of these three individuals indicate that she/he has personal knowledge that the applicant resided continuously in Flushing, New York from some month in 1981 through some month in 1989, and that the longest anyone of the three of them went without seeing the applicant during the statutory period was one month.

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