

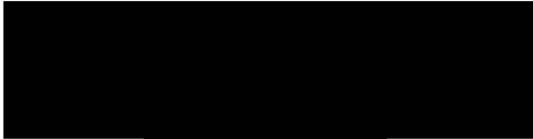
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



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FILE: [Redacted]
MSC-05-236-14438

Office: LOS ANGELES

Date: **MAR 25 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.

A handwritten signature in cursive script, 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, 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 he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director noted that the applicant testified under oath during his immigration interview and indicated on his Form I-687 application that he first entered the United States in June of 1981 and was absent from the country twice; from November 1987 to December of 1987 and in June of 1991. The applicant also stated that his wife first came to the United States in 1991. The director noted that the statements were inconsistent with the applicant's statements that he had two children born in Mexico in 1983 and 1985. The director also noted that the record of proceeding contained a Form EOIR-42B, Adjustment of Status Application, filed by the applicant on July 5, 2002, where he stated that he first arrived in the United States on June 20, 1991; and a Form G-325, Biographic Information, where he stated that his address outside the United States of more than one year was Veracruz, Mexico from 1959 to May 1991.¹ 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 he has submitted sufficient evidence to establish his eligibility for the immigration benefit sought. He asserts that his testimony has been consistent and truthful and is corroborated by the evidence submitted on his behalf. The applicant asserts that minor discrepancies found in the record of proceeding were due to the passage of time and should not be used as a basis for denial. He states that the employment letter submitted by [REDACTED] Farm Labor Contractor complies with regulatory standards. The applicant also states that his wife was present in the United States but left to have their children in Mexico. He further states that his EOIR-42B, Adjustment of Status Application, indicates that he first arrived in the United States in June of 1991 because he was absent from the country during that month. The applicant states that during his Cancellation of Removal hearing he informed his attorney that he last entered into the United States in 1991 but that counsel did not effectively relay the

¹ It is noted that the applicant stated on his Form I-589, Application for Asylum, dated March 19, 2002, at part #18, that he last entered the United States on June 20, 1991 and that he had not previously entered the United States.

information to the Court. The applicant does not submit any new evidence on appeal. To meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.2(d)(6). Here, the applicant fails to overcome the grounds for denial in the NOID and the Notice of Decision.

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 Form I-687 application. On appeal, the applicant has not overcome the issues raised by the director, nor has he 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.