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



U.S. Citizenship  
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Services

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FILE:

MSC-04-335-11149

Office: DETRIOT

Date:

**MAY 04 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, Detroit, and is now before the Administrative Appeals Office (AAO) 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 (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 during his immigration interview on August 2, 2005, the applicant testified under oath that he first entered the United States in February 1981 and was absent from the United States from January 1984 until his return 5 weeks later. The director further noted that when asked whether he had ever been apprehended by immigration officials while attempting to enter the United States, the applicant answered no. The director noted however that a fingerprint check revealed that the applicant was apprehended on April 30, 1996 under the name [REDACTED] after illegally entering the United States. The director also noted that at the time of his apprehension the applicant stated that he had been living in Canada as a refugee that he was denied status and ordered to leave Canada by May 10, 1996, and that he was thereafter smuggled into the United States. The director denied the application, finding that the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

Counsel stated on the Form I-694, Notice of Appeal of Decision under Section 210 or 245A of the Immigration and Nationality Act (Act), that he would be submitting a brief within 30 days of receipt of materials processed under the Freedom of Information Act (FOIA). The record shows that the applicant's FOIA request was processed as of February 12, 2009. To date, there has been no brief or further evidence filed in support of the applicant's appeal.

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.