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 and Immigration Services

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[redacted]

FILE: [redacted] Office: NEW YORK Date: MAY 14 2009
MSC-05-230-12095

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, or *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 of the New York office, and 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 (LULAC) Class Membership Worksheet. The director denied the application, finding that the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident status pursuant to the terms of the CSS/Newman settlement agreements. Specifically, the director determined that the applicant failed to establish that he had continuously resided in the United States in an unlawful status during the requisite period.

In addition, the director determined that the applicant failed to establish that he is eligible for class membership pursuant to the terms of the CSS/Newman settlement agreements since the applicant stated at the time of his interview that he did not physically tender an application for legalization during the requisite period.[1] This portion of the director's decision shall be withdrawn. By adjudicating the application on the merits, the director treated the applicant as a class member.

On appeal, the applicant asks for review of his application and his testimony at interview. The applicant has not submitted any additional evidence on 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 application. On appeal, the applicant has not addressed the grounds stated for denial, nor has he presented additional evidence relevant to the grounds for denial or the stated reason for appeal. The appeal must therefore be summarily dismissed.

Beyond the decision of the director, the record also reveals that on June 15, 1995, an immigration judge apparently ordered the applicant excluded and deported from the United States, based upon the applicant having procured or attempted to procure a visa or other documentation by fraud, or by willfully misrepresenting a material fact, at the time the applicant sought admission to the United States on January 8, 1995. See Section 212(a)(6)(C)(i) of the Act.[2] The applicant did not reveal this arrest on the instant application or in his statement. Although this ground of inadmissibility is waivable, even if the applicant were to be granted a waiver he remains ineligible for failure to establish his continuous unlawful residence.

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

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[1] The director noted the inconsistency between the applicant's answer at the time of his interview and his answer in his Class Membership Worksheet, wherein he stated that he was dissuaded from filing a legalization application during the requisite period.

[2] On January 30, 1996, the Board of Immigration Appeals dismissed the applicant's appeal. In the exclusion proceedings, the applicant apparently used the alias of [redacted] The record of those exclusion proceedings is contained in the Administrative file, or A-file, [redacted]