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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
and Immigration
Services

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[Redacted]

FILE: [Redacted] MSC 05 199 10755

Office: DALLAS

Date: SEP 04 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 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, Dallas. The decision is now before the Administrative Appeals Office 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, and a Form I-687 Supplement, CSS/Newman (LULAC) Class Membership Worksheet. The director denied the application because the applicant did not establish that he continuously resided in the United States for the duration of the requisite period. The director noted that even had the applicant provided evidence of physical presence during the required period, his absence from this country from the summer of 1986 to May 1987 would have broken his period of continuous residence causing ineligibility.

On appeal, the applicant acknowledges his absence from the United States from the summer of 1986 to May 1987 and explains that during that time he took actions to obtain his passport and visa so that he could enter the country legally.

On October 28, 2005, the applicant was interviewed by a officer of the United States Citizenship and Immigration Services (USCIS) and his interview was recorded on a Record of Sworn Statement which he signed on that day. The applicant was asked "During the 1980's did you leave the US for an extended period?" His answer was "Yes." He was then asked "When did you leave and return?" His answer was "Summer of 1986 through May of 1987." The applicant has not established continuous residence and physical presence because his absence was for more than forty-five days for a single absence and for more than one hundred eighty days in total. See 8 C.F.R. § 245a.2(h).

The record contains a letter dated October 19, 2005 from [REDACTED] of the Collin County, Texas, Community Supervision and Corrections Department indicating the applicant was supervised by the Department on an "Assault Causes Bodily Injury" charge from November 9, 1995 until July 12, 1996. However, the final court disposition of this arrest is not included in the record of proceeding.

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 that the director accurately set forth a legitimate basis for the denial of the application. On appeal, the applicant has not presented additional evidence. The appeal shall therefore be summarily dismissed.

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