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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

PUBLIC COPY

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[Redacted]

FILE:

[Redacted]

Office: KANSAS CITY

Date:

SEP 08 2009

MSC: 06 028 12630

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, 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, Kansas City, Missouri, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

It is noted that the applicant stated on the Notice of Appeal to the Administrative Appeals Office (AAO), Form I-694, filed October 5, 2007, that an appeal brief will be submitted within 30 days. On November 8, 2007 counsel requested additional time due to his difficulty in obtaining evidence in support of the appeal. Counsel also stated that in an attempt to gather evidence to establish the applicant's eligibility, he had made a FOIA request for evidence from the A-File of [REDACTED] (applicant's brother). It is noted that the record reflects that the FOIA request had been processed on April 2, 2009. However, the record does not reflect receipt of an appeal brief. Therefore, the record must be considered complete.

On appeal, counsel for the applicant states, generally, that the decision of the director is arbitrary and capricious; the director abused discretion; the director's request for evidence (RFE) was confusing and misleading; all facts were not taken into consideration; and, the decision was against the weight of the evidence. In addition, counsel provides a copy of a Deed of Trust in an attempt to substantiate an affidavit from [REDACTED] attesting that the applicant and his family had been his tenant at an apartment located at [REDACTED], Ontario, California, from January 1979 through January 1981. However, this evidence is not probative as it does not pertain to the requisite period. Counsel does not submit any additional evidence on appeal.

In addition, it is noted that although the applicant, who was born in 1978, was an infant at the time of his claimed entry in 1979, the applicant does not submit any elementary school records, or high school records, or medical records, nor does he provide an explanation as to why such evidence is not available.

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 presented additional evidence relevant to the requisite period. Nor has counsel addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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