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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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FILE:

MSC-04-321-10515

Office: NEW YORK

Date:

SEP 10 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, New York. The decision 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. The director stated that the applicant did not provide sufficient evidence to meet his burden of proof to establish his eligibility for the benefit sought.

On appeal, the applicant asserts, through counsel that he has established his continuous unlawful residence for the requisite time period.¹

The record of proceeding contain copies of a passport with two visitor's visa which the applicant claims belongs to him. The AAO notes that the passport indicates that the applicant returned to Dakar, Senegal on June 30, 1981; entered Liberia on April 12, 1983; departed from Liberia on April 15, 1983; and arrived in Dakar, Senegal on May 4, 1984. The applicant did not list these absences in his Form I-687. The information in the passport is inconsistent with the applicant's record of proceeding. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Upon a *de novo* review of all of the evidence in the record, the AAO agrees with the director that the evidence submitted by the applicant has not established that he is eligible for the benefit sought.

¹ The AAO has reviewed the affidavits in the record of proceeding and agrees with the director that the evidence submitted does not provide sufficient evidence to overcome the burden of proof necessary to establish his eligibility for the benefit sought. None of the witness statements provide concrete information, specific to the applicant and generated by the asserted associations with him, which would reflect and corroborate the extent of those associations and demonstrate that they were a sufficient basis for reliable knowledge about the applicant's residence during the time addressed in the affidavits. To be considered probative and credible, witness affidavits must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the facts alleged. Upon review, the AAO finds that, individually and together, the witness statements do not indicate that their assertions are probably true. Therefore, they have little probative value.

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 denial of the application. On appeal, the applicant has not presented any new evidence of his entry into the United States or his continuous residence during the requisite period. The applicant fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor has he specifically addressed the basis for denial. As the applicant presents no additional evidence relevant to the grounds for denial, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(3)(iv).

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