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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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FILE:

MSC: 05 049 10029

Office: LOS ANGELES

Date: JAN 11 2010

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Los Angeles, California, is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's status 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 noted the applicant did not address the issue of the lack of credibility of the affidavits the applicant provided which had been raised by the director in the notice of intent to deny (NOID). The director also noted that the Form I-130, Petition for Alien Relative, indicates that the applicant arrived in the United States in 1986. The director determined, therefore, that the applicant had failed to establish the requisite continuous residence.

On appeal, counsel for the applicant asserts that the director erred in denying the application based on information contained in the Form I-130 petition. Counsel also asserts that the applicant cannot be held responsible for the information on the Form I-130 filed on behalf of the applicant. Counsel does not submit additional evidence on appeal.

In effect, counsel seeks to exclude the evidence contained in the Form I-130 petition. Contrary to counsel's assertion, the Form I-130 petition was accompanied by the Form G-325A Biographic Information which was signed by the applicant and dated the same day as the Form I-130. The applicant cannot, therefore, avoid the record he has created. The Form I-130, together with accompanying documentation, is an indelible part of the record and cannot be purged from the record.

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 the decision. On appeal, counsel has not presented additional evidence. Nor has he addressed the primary grounds stated in the termination notice. The appeal must therefore be summarily dismissed.

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