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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 06 089 12453

Office: HOUSTON

Date:

JAN 26 2018

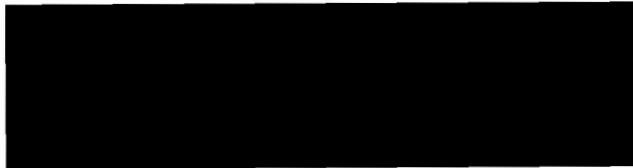
IN RE: Applicant:



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. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

Perry Rhew
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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through the date of attempted filing during the original one-year application period that ended on May 4, 1988. The director noted that the applicant responded to a notice of intent to deny (NOID) but failed to overcome the reasons for denial stated in the NOID. In the NOID, the director pointed out various discrepancies in the evidence provided, including affidavits, which contracted the applicant's claim of continuous residence during the requisite period.

On appeal, counsel for the applicant asserts that the applicant has submitted sufficient evidence to establish his continuous residence. Counsel does not provide evidence to overcome the reasons for denial as stated in the NOID. Instead, counsel submits an affidavit from the applicant attesting that the discrepancies in the evidence provided are due to the passage of time and an affiant's lack of memory. In effect, counsel seeks to selectively exclude some of the evidence submitted and the information contained in the applicant's application and at his interview. However, the applicant cannot avoid the record he has created. The contents of the applicant's application(s), together with accompanying documentation, are indelible parts of the record and cannot be purged from the record.

Any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. 8 C.F.R. § 103.3(a)(3)(iv). A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, counsel has not presented additional evidence and has not addressed the primary basis for denial. The appeal must, therefore, be summarily dismissed.

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