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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] Office: HOUSTON Date: JAN 29 2010
MSC 05 221 10428

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.

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, 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, Houston. 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. In so finding, the director found the evidence the applicant submitted was not persuasive and indicated that the applicant had not provided any explanation about the birth of some of the applicant's children in Mexico during the requisite period.

On appeal, counsel states that no piece of evidence in the applicant's record suggests that he was not in the country in 1981 and his statements are consistent with the testimony of other affiants. Counsel submits an affidavit from the applicant in which he acknowledges that has four children who were born in Mexico. The applicant explains that that his wife would come to the United States to be with him and then leave and have his children in Mexico. The applicant has now provided an explanation about the birth of his children abroad. However, absent evidence to the contrary, the applicant was probably residing abroad prior to the conception of his daughter who was born on November 25, 1983 in Mexico.

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 addressed the grounds stated for denial, nor has he presented additional evidence. The appeal shall therefore be summarily dismissed.

The applicant's Federal Bureau of Investigation fingerprint results report shows that on October 1, 1994, he was arrested by the Sherriff's Office in Primghar, Iowa, and charged with operating a motor vehicle while intoxicated. However, the final court disposition of this arrest is not included in the record of proceeding.

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