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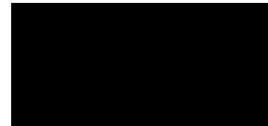
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



L1



DATE: **JUL 20 2011** Office: NATIONAL BENEFITS CENTER FILE:

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:

SELF-REPRESENTED

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, National Benefits Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that the applicant filed a Form I-687 Application for Temporary Resident Status on October 28, 2005. On September 25, 2006, the director denied the application noting that the applicant failed to appear for scheduled fingerprinting appointment. Thus, the director indicated that the application was abandoned.

On September 22, 2010, U.S. Citizenship and Immigration Services (USCIS) informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. The applicant was informed that she was entitled to file an appeal with the AAO which must be adjudicated on the merits.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO found that the director's basis for denial of the Form I-687 was in error. On appeal, the applicant submitted evidence that she appeared for fingerprinting. The AAO withdrew the director's statements regarding the applicant's failure to comply with the request to appear for fingerprinting. However, the AAO identified alternative grounds for denial of the application. Specifically, the AAO noted that the applicant failed to submit sufficient evidence in support of her application.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through the end of the relevant period, the applicant provided written statements from [REDACTED] t. [REDACTED] states that he has known the applicant for approximately 24 years and Pastor Tremont states that he has known the applicant since she was a teenager. Their statements are not probative of either the applicant's entry into the United States or the applicant's continuous residence throughout the relevant period. Further, their statements do not indicate how they date their initial meeting with the applicant, how frequently they had contact with the applicant, or how they have personal knowledge of the applicant's presence in the United States.

The statements from [REDACTED] contain statements that they have known the applicant for years and [REDACTED] attests to the applicant being physically present in the United States during the required period. These statements fail, however, to establish the applicant's continuous unlawful residence in the United States for the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality; an applicant must provide evidence of eligibility apart from his or her own testimony; and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility.

The letters from [REDACTED] state that they met the applicant after the requisite period and can be accorded no weight as evidence of the applicant's residence in the United States for the duration of the requisite period.

None of the witness statements provide concrete information, specific to the applicant and generated by the asserted associations with the applicant, 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.

Finally, the AAO notes that the applicant indicated on the Form I-687 that she was absent from the United States from December 1981 to March 15, 1982. This absence exceeds the 45 day limit for a single absence during the relevant period.

An applicant shall be regarded as having resided continuously in the United States if at the time the application for temporary resident status is considered filed, as described above pursuant to the CSS/Newman Settlement Agreements, no single absence from the United States has exceeded 45 days, and the aggregate of all absences has not exceeded 180 days during the requisite period unless the applicant can establish that due to emergent reasons the return to the United States could not be accomplished within the time period allowed, the applicant was maintaining a residence in the United States, and the departure was not based on an order of deportation. 8 C.F.R. § 245a.2(h).

Continuous unlawful residence is broken if an absence from the United States is more than 45 days on any one trip and "the aggregate of all absence has not exceeded one hundred and eighty (180) days" unless return could not be accomplished due to emergent reasons. 8 C.F.R. § 245a.2(h)(1)(i). "Emergent reasons" has been defined as "coming unexpectedly into being." *Matter of C*, 19 I&N Dec. 808 (Comm. 1988). The applicant does not address this absence on appeal.

The record contains a copy of the applicant's passport and evidence that she entered the United States with a G-5 visa on March 15, 1982. The record contains no objective evidence that the applicant entered the United States before January 1, 1982.

On May 5, 2011, the AAO issued a notice of intent to deny (NOID) informing the applicant of the deficiencies in the record and providing her with an opportunity to respond. No response has been received.

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. Given the paucity of credible evidence contained



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in the record and the applicant's failure to respond to the NOID, the appeal will be summarily dismissed.

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