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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

[redacted]

Date: NOV 0 8 2011 Office: NATIONAL BENEFITS CENTER [redacted]

IN RE: [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 of the National Benefits Center. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director erroneously denied the I-687 application, finding that the applicant abandoned the application, pursuant to 8 C.F.R. § 103.2(b)(13), by failing to appear for a scheduled fingerprinting appointment.[1] Because the director erred in denying the application based on abandonment, on September 22, 2010, the director of the National Benefits Center issued a notice advising the applicant of the right to appeal to the AAO. On September 13, 2011, the AAO withdrew the director's decision. The matter is now before the AAO on appeal.

On September 13, 2011, the AAO issued a notice of intent to deny (NOID) the I-687 application, informing the applicant of the deficiencies in the record and providing her with an opportunity to respond.[2] Specifically, the AAO requested that the applicant provide evidence that she entered the United States before January 1, 1982, and that she continuously resided in the United States in an unlawful status since such date for the duration of the requisite period. The applicant has not submitted any additional evidence in response to the AAO's request.

As stated previously, to meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony, and the sufficiency of all the evidence produced by the applicant will be judged according to its probative value and credibility. 8 C.F.R. § 245a.2(d)(6). Here, the applicant has failed to provide probative and credible evidence of her continuous residence in the United States for the duration of the requisite period.

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[1] On December 14, 2009, the United States District Court for the Eastern District of California ruled that United States Citizenship and Immigration Services (USCIS) may not apply its abandonment regulation, 8 C.F.R. § 103.2(b)(13), in adjudicating legalization applications filed by CSS class members. *See, CSS v. Michael Chertoff,* Case 2:86-cv-01343-LKK-JFM.

[2] The NOID noted that at the time of completing the I-687 application, the applicant listed residences in Bakersfield, California from November 1981 through the end of the requisite period. She did not list employment in the United States during the requisite period. She listed one absence from the United States, from August to September 1987. The applicant submitted, as proof of her entry into the United States and continuous residence in the United States during the requisite period, witness statements from [redacted] and [redacted] However, the witness statements lack sufficient detail, because they fail to provide concrete information specific to the applicant which would demonstrate that the witnesses have a sufficient basis for reliable knowledge about her residence in the United States during the requisite period. In addition, [redacted] states that the applicant resided with him from November 1981 to June 1985 at [redacted] However, in the I-687 application the applicant states that she was residing on [redacted] during that period, and she does not list an address on [redacted] as a residence during the requisite period. The AAO noted that this is an inconsistency which is material to the applicant's claim, in that it has a direct bearing on her residence in the United States for the duration of the requisite period.

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 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.